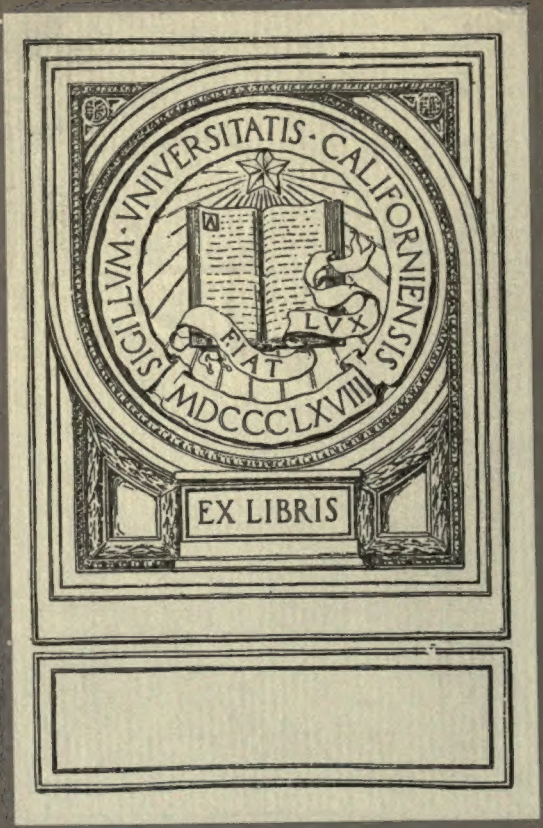
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THE GOVERNMENT OF COLORADO

by

E. B. Smith, A.M.

A thesis submitted in partial satisfaction of the requirement for the degree of Doctor of Philosophy in the University of California

Berkeley, California

Nov. 1922

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INTRODUCTION

In recent years attention has been directed toward the federal government, and especially toward a comparison of the government of the United States and the governments of other countries. While there has been a growing interest in these larger units of political organization, the concern about governmental institutions has extended to state and local systems. The intimate relation to and dependence upon the more local phases of government, of the individual citizen, have been recognized. General treatises have been written on state government in the United States; and many studies of the governments of separate states have been made. No attempt to describe the organization and functions of the government of Colorado has yet been published.

It is the purpose of this study to describe the organization and functions of the state government of Colorado. This study has been supplemented by chapters on the government of the county and the incorporated cities and towns. The original intent to show only the relation of state government to the local divisions gave way to a general consideration of them as the more satisfactory plan to follow, for a complicated relationship exists between the state government and local community organizations. It has seemed impracticable to include a discussion of the detail of the administration of state government through the agencies created in a comparatively recent period; and, consequently, the main discussion of the boards and commissions has been limited to a

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single chapter, with some detail added in Appendix II.

In the preparation of this study the documents relating to the constitution, the statutes compiled and generally recognized as authoritative, the later session laws reported by authority of the legislatures, and the state court records have been used. These materials have been supplemented, in many instances, by state and county records and by the generous counsel of officials. When it has appeared necessary to an understanding of the present condition, some phases of historical development have been included. No effort has been made to introduce, in any considerable degree, criticism which has general application to conditions in all states rather than special application to conditions of state and local government in Colorado.

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FORMATION OF THE CONSTITUTION

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When the Congress of the United States, by the Northwest Ordinance of 1787, provided that states should be carved out of the Northwest Territory, the basis of the government of Colorado was indirectly established. The Ordinance contained a bill of rights and other features which have served as models for all the territories and states carved out of the western domain.[1] Illinois was one of the states formed after this model.[2] It was natural that some of the provisions of the constitution of Illinois should have been taken from the constitutions of Ohio, Kentucky, and Indiana, since those states had gone through the process of constitution making not long before; and it was also to be expected that some of the New York ideas should have been incorporated because some of the more influential members of the convention which made the constitution of Illinois had been New Yorkers. The form of this constitution was influenced also by the constitution of the United States.[3] It is apparent, therefore, that by the time the constitution of Colorado was framed numerous examples were available for the members of the constitutional convention.

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1 B. A. Hinsdale, The Old Northwest (ed.1899), pp. 326-327,364.
2 "Journal of Constitutional Convention of 1818", Journal of Illinois State Historical Society, Vol. 6, p. 368.
3 Ibid., Vol. 6, p. 352.

The Government of Illinois

Section I

Problems of the Constitution

"Natural Influences"

When the Congress of the United States, by the Northwest Ordinance of 1787, provided that states should be formed out of the Northwest Territory, the basis of the government of Illinois was thereby established. The Ordinance contained a bill of rights and allowed citizens some access to courts for all the protections and rights accorded out of the English Common Law.[1] Illinois was one of the states formed after Civil War.[2] It was natural that some of the provisions of the Constitution of Illinois should have been taken from the constitutions of Ohio, Kentucky, and Indiana, where civil had come through. The process of constitution making was long drawn and it was also to be expected that some of the laws that these states have incorporated because some of the more influential members of the convention which made the constitution of Illinois had been from Virginia. This point of view is emphasized also by the constitution of the United States.[3] It is important, therefore, that in the time the possibility of Indian and French influence and regular were available for the members of the constitutional convention.

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1. E. C. Kinney, The Civil Ordinance (n.d.1887), pp. 101-102.
2. "Manual of Legislative Organization of Illinois", Journal of Illinois State Historical Society, Vol. 6, p. 800-
3. Ibid., Vol. 8, p. 320

It is evident that the men responsible for the creation of the state government of Colorado relied upon these earlier experiences, for the president of the convention which formed the constitution stated that "we are necessarily compelled to look to the Commonwealths for many guides to aid in the work before us."[1] The men in the convention turned to the constitution of Illinois as a model.[2] For fifteen years the people had lived under the code of Illinois, which had been adopted by the first territorial legislature of Colorado.[3] The relation of the new government to that of the older state is further indicated by the fact that many of the members of the convention had come from Illinois.[4] In fact, one of the most actively interested and influential members had served as congressman from Illinois and had been one of the makers of the constitution of that state.[5]

In the act which authorized the people of Colorado to proceed to the formation of a state, Congress made provision for their direction and encouragement. The governor of the territory, the chief justice, and the United States attorney were named a committee or commission with authority within certain limitation to prescribe rules and regulations governing the apportionment of the representa-

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1 Proceedings of the Constitutional Convention, p. 19. The speeches and debates of the constitutional convention were not preserved. The records and proceedings of all meetings were published in 1907 by the then secretary of state, who used the original manuscript minute book of the convention, acting under the direction of a law of 1907.

2 E.H.Meyer, "The Constitution of Colorado", in Iowa Journal of History and Politics, Vol. I, p. 257.

3 S.H.Elbert, "Public Men and Measures," in Bancroft Mss., No.21

4 Meyer, op. cit., Vol. I, p. 257.

5 Memorial, Judge H.P.H.Bromwell, Denver Times, January 10, 1903.

tives to the constitutional convention among the counties of the territory and the manner of their election. The convention was authorized also to make the regulations governing the submission of the constitution to the people for their ratification or rejection. The persons qualified to vote for representatives to the general assembly of the territory were declared qualified voters at the elections to be held to choose representatives to the convention and for the acceptance or rejection of the constitution. The number of members of the convention was required to be the same as in both branches of the legislature of the territory.[1]

When the convention should assemble, the first act required by Congress, after organization, was the adoption, on behalf of the people of the territory, of the Constitution of the United States.[2] In addition to this limitation, it was provided that the constitution should be republican in form, and "make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence."[3] It was provided further that perfect toleration of religious sentiment should be secure; that personal or property rights should never be molested on account of the mode of religious worship; that unappropriated public lands in the territory should remain at the disposal

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1 Enabling Act, Sec. 3.
2 Ibid., Sec. 4.
3 Ibid., Sec. 4.

of the United States; that lands of citizens of the United States residing outside the state should never be taxed higher than those belonging to residents; and that no tax should be levied on lands or property of the United States.[1]

Internal Conditions

The work of the convention and the movement for statehood was in progress at a time when not only Colorado but the whole country was depressed. The panic of 1873 had produced disastrous effects over the country at large, and Colorado did not escape. In general, railroad building ceased and all related industries suffered; all forms of enterprise became slack and listless; numberless projects stopped for lack of capital; and the migration of people declined.[2] In Colorado, real estate had fallen one-half in value; all building ceased, and its cessation affected more than one-half of the occupations and branches of business, directly or indirectly. Thus all activity was severely retarded.[3]

But another disaster, more serious possibly, came during the years of 1874, 1875, and 1876. The Rocky Mountain locust appeared in such numbers that they devastated the region completely, with the exception of some wheat which was saved at great expense. As a result, irrigation projects ceased between the years of 1874 and 1878. Agriculture in any form consequently declined.[4]

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1 Ibid., Sec. 4
2 W.A.Dunning, Reconstruction Political and Economic (1907), pp.236-238.
3 Frank Hall, History of Colorado (1889), Vol. II, pp. 290-291.
4 Ibid., pp. 291-292

To add to the distress of the people in the Territory of Colorado, the mining processes were in a state of transition. The tracts bearing gold were limited and crowded at the outset by large numbers of men impatient to gain fortunes quickly. A gradual decrease in the earnings with the shovel, pick, and pan caused a decrease in the population. As the gold of the stream gravels and the oxidized surface ores was exhausted, it required much patience and hard work and not a little capital to initiate such mining enterprises as were needed to continue the development of the veins. Even the crude methods of milling and smelting employed in the older mining sections were not used in the mining districts of Colorado, due to the remoteness of the industrial centers and the consequent high cost of transportation.[1]

With the coming of the railways in 1870 and the years immediately following, a new mining era was begun. New milling processes and scientific improvement in the methods of extraction gave encouragement to the mining interests. The new impetus, however, was soon checked. A lack of knowledge of the essential principles involved in successful mining, defective machinery, and inability to extract more than a small percentage of the value of the ore led to disappointment. Mills erected in the different districts, with few exceptions, were closed in a few weeks after their completion, or were operated spasmodically with

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1 William Blackmore, Colorado, Resources, Parks, and Prospects (1869), pp. 105-106, 127-129; J. A. Smith, Report on Development of Mineral, Metallurgical, Agricultural, Pastoral, and other Resources of Colorado (1882), pp. 5-6.

unsatisfactory results.[1]

These were causes which combined to obstruct the establishment of a state government for Colorado, and which caused fears that such a government might be an intolerable financial burden on the people and a discouragement to the migration of desirable settlers.

The Constitutional Convention Assembled

In compliance with the plan of Congress for the creation of the state of Colorado, the governor of the territory divided it into twenty-four districts, each of which sent from one to six members, thirty nine in all, to the convention.[2] Although the elections were in many instances irregular, the men who assembled were probably representative of the people of the section.

The earnest attitude of the delegates to the convention and the general sentiment which prevailed indicated that the people were eager for a state government. For years they had been obliged to submit to "foreign rule", since it was the common practice of the political party in power to compensate its supporters by granting offices in the territories. These "carpet baggers" were considered objectionable, and the territorial government was generally disliked.[3] The attention of the people was fixed upon the constitutional convention; for, when the territorial legislature assembled in the beginning of 1876, while the convention was in session, not much importance was attached to its proceedings. The legislative

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1 Ibid., pp. 7 ff.
2 John L. Routt, "Territory and State", in Bancroft Mss. No. 50; Proceedings of Constitutional Convention, pp. 15-16.
3 Hall, op. cit., p. 293

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body itself deemed its meetings of little value, for it did not even complete its usual form of organization.[1]

After the organization of the convention, the delegates proceeded to the work of making a constitution in the interests of the whole group, with little regard for party politics, even though party lines had been clearly recognized in the election of officers.[2] Since twenty-four of the thirty-nine delegates were republican, that faction was able to dominate.[3] The president of the convention, in accepting the office, showed the spirit of the group, however, when he said, "No act of mine shall be tainted with the slightest semblance of partisanship or sectional spirit. Here I know no party but the entire people; no sectionalism but the entire Territory."[4] The quality of the work produced and the manner of producing it appear highly creditable to the group of men chosen for the purpose. As might be expected, there was "no insufficiency of what is known as the lobby, to say nothing of petitions and remonstrances from all quarters."[5]

The Work of the Convention

One of the first concerns of the convention was to attempt to relieve the people locally of the financial obligation connected with the making of the constitution. Congress had recognized

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1 History of the City of Denver (1880, O.L.Baskin & Co., publisher), p. 233.
2 Hall, op. cit., p. 295.
3 C.L.King, History of the Government of Denver (1911), p.87.
4 Proceedings of Constitutional Convention, p.19
5 Hall, op. cit., p. 305

[illegible] Bennett has questions of little value, but it did not even consider the about face of Socialists.

After the consolidation of the movement, the delegates proceeded to the work of voting a manifesto. In the interests of the whole group, with little regard for party affiliation, even though party ideas had been already represented in the elections of [illegible]. Since twenty-four of the delegates belonging were propaganda, that fraction was able to dominate. The position of the movement, in simplifying the method, caused the opinion of the group, however, only to hold. The act of some right to hold as well the elaborate resolution of [illegible] or [illegible] Marxists. Then I know no study gil for making [illegible] [illegible] but the social [illegible]. The quality of the work [illegible] and the manner of [illegible] is common slightly [illegible] the cause of our chosen [illegible] program. It might be [illegible] that the [illegible] of [illegible] is [illegible] [illegible] [illegible] of [illegible] and [illegible] [illegible].

The Role of the Socialists

The of the final [illegible] of the [illegible] [illegible] [illegible] [illegible] the [illegible] [illegible] of the [illegible] [illegible] [illegible] [illegible] the [illegible] of the [illegible]. [illegible] [illegible]

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1. [illegible] of the City of [illegible], [illegible] p. [illegible].
2. [illegible], [illegible], p. [illegible]
3. [illegible], [illegible] of the [illegible] of [illegible] [illegible], [illegible]
4. [illegible], [illegible], p. [illegible]

this feature of the process of state making when it declared that any balance of the appropriation for legislative expenses of the territorial government remaining unexpended should be applied to defraying the expenses of the convention, under the same rules and regulations as were provided by law for the support of the territorial legislature. But since the territorial treasurer reported that the amount appropriated for the expenses of the territorial legislature was barely sufficient to meet the expenses, no funds would be left for the use by the convention. Consequently, on the fourth day of the convention, a resolution was offered and adopted that Congress should be asked for an immediate appropriation of twenty-five thousand dollars to defray the expenses and pay the members and officers of the convention.[1] The committee which was appointed to memorialize Congress contended that assistance was necessary since the convention had no authority to levy a tax or make an appropriation. To meet the needs of the convention financially, Congress voted twenty thousand dollars to aid in holding the convention for framing the constitution for the state, the first time such action had been taken.[2] In order that no obligation should be neglected, the constitution provided that the first general assembly should have power to make appropriation for any deficit in the finances of the convention.[3]

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1 Proceedings of Constitutional Convention, p. 39.
2 Denver Republican, January 6, 1876.
3 Constitution of Colorado, Schedule 21.

The work of the convention was carried on with the assistance of twenty-four standing committees. The introduction of all proposals for the constitution was in the form of resolutions which were referred to the committees. After consideration in committee, the report was printed and made the special order for a definite day, when it was discussed in the convention. The subject was then referred to a committee of the whole, reported, and adopted.[1]

The report of the committee on the bill of rights was the first one ready for presentation to the convention. In many respects it followed the form and content of the bill of rights of the federal Constitution. At the beginning of the lengthy article, containing twenty-eight sections, the declaration was made that all political power is vested in the people, and that all government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.[2] It was further stated that the people of the state have the exclusive right of governing themselves, as a free, sovereign and independent state, with power to alter or abolish their constitution and form of government, provided that the changes introduced should not be repugnant to the Constitution of the United States.[3] Some principles of the Declaration of Independence were recognized in "That all persons have certain natural, essential, and inalienable

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1 Proceedings of Constitutional Convention, pp. 27.
2 Constitution of Colorado, Art. II, Sec. 1.
3 Ibid., Art. II, Sec. 2.

rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; and of seeking and obtaining their safety and happiness."[1] The remaining features of the article were not peculiar to this constitution, with the possible exception of the provision that private property should not be taken for private use, except for reservoirs, drains, flumes or ditches, for agricultural, mining, or milling purposes.[2]

An interest of nation-wide importance, the control of corporations, received frequent attention and was the occasion of much debate in the convention. It was at the time of the convention that the Granger movement was at its height and the anti-corporation activity was pronounced.[3] In Colorado, however, the needfor capital was too great for the makers of the constitution to write into it any provisions actually discouraging to the introduction into the section of eastern capital. Ex-Governor Evans sent to the convention a communication "praying that protection be given to railroad investments."[4] But to satisfy the demands of the times, some provisions designed to prevent corporation abuses were given consideration, although all were so worded as to safeguard past investments and not to be hostile to capitalistic interests. The general assembly was empowered to provide by laws for the or-

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1 Ibid., Art. II, Sec. 3.
2 Ibid., Art. II, Sec. 14.
3 F. L. Paxson, The New Nation (1915), p. 68.
4 Proceedings of the Constitutional Convention, p. 153.

ganization of corporations and, at the same time, was prohibited from passing any laws amending, extending, or granting private charters of incorporation.[1] Provision was made for the suppression of corporations already in existence whenever they should appear to be injurious to the best interests of the citizens, "in such manner that no injustice shall be done to the corporations."[2] The assembly was denied the power to pass any law "for the benefit of any railroad or other corporation . . . . . retroactive in its operation."[3] The consent of municipalities was made necessary for the use of its streets by street railway companies, and, more important, perpetual franchises were prohibited. The property of corporations, real and personal, was required to share the burden of taxation, and the power to tax this should never be relinquished.[4] And it was provided further that the legislature should never lend the credit of the state in aid of any corporation, either by loan or by becoming a subscriber to any stock; neither could it assume any debt or liability of any party.[5] Thus the convention attempted to reasonably control the corporation, but it was careful not to discourage the application of capital to the development of the interests of the state. The committee which was appointed to prepare an address to the people, when the result of the convention was submitted for adoption or rejection, stated

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1 Constitution of Colorado, Art. XV, Sec. 2.
2 Ibid., Art. XV, Sec. 3.
3 Ibid., Art. XV, Sec. 12.
4 Ibid., Art. X, Sec. 9.
5 Ibid., Art. XI, Sec. 1, 2.

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1. [illegible], [illegible], [illegible]
2. [illegible], [illegible], [illegible]
3. [illegible], [illegible], [illegible]
4. [illegible], [illegible], [illegible]
5. [illegible], [illegible], [illegible]

the attitude of the convention: "We are aware that these provisions do not cover the whole ground, but it must be remembered that while some of our sister states have not gone far enough in placing restrictions on the legislative power, others have gone too far, and have had to recede. We have endeavored to take the middle ground, believing it to be more safe, and in the end that it will give more general satisfaction."[1]

In accord with the general spirit of the convention respecting corporations, provision was made for the effective control of corporate bodies acting as common carriers. Early in the experience of the convention, a petition was presented in the interests of the railroads, which called attention to the importance of the building of railroads in the development of the new country. While it did not seek any special benefits or exemptions for railroads over any other class of property, it did seek to exclude from the constitution any provisions which would oppose the construction of roads or jeopardize, in any way, those already in operation.[2]

The authority of the convention to deal with the subject was asserted in a resolution which stated that the power to regulate commerce within the state had never been surrendered to the United States, and, therefore, remained inherent in the people of

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1 Proceedings of the Constitutional Convention, p. 728.
2 Ibid., p. 191.

Colorado and was a governmental power to be exercised in all proper cases.[1] This resolution was followed by the appointment of a committee of commerce, whose duty it was to consider and report to the convention the rights and powers of the state over the subject of commerce, as to regulating the shipment, carriage, warehousing, and delivery of merchandise by common carriers. This committee was encouraged in its work by two resolutions which had been previously considered: the evils of free passes or reduced rates to any persons except officers and employes of transportation companies had been recognized; and it had been suggested that the legislature should pass laws to correct abuses, prevent unjust discrimination, and regulate rates of freight and passenger service.[2] The final report of the committee which was incorporated in the constitution declared that all railroads should be public highways, that all individuals and corporations should have equal rights to transportation over the railroads of the state, and that no undue or unreasonable discrimination should be made in charges or facilities for transportation of freight or passengers within the state.[3] To adjust all controversies between the people and the common carriers, the district courts were given original jurisdiction,[4] and at the same time the constitution was made to declare that "the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in

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1 Ibid., pp. 72, 115-116.
2 Proceedings of the Constitutional Convention, pp. 55,59.
3 Constitution of Colorado Art. XV, Sec. 4, 6.
4 Ibid., Art. VI, Sec. 11.

such manner as to infringe the equal rights of individuals or the general well being of the State."[1] As a measure intended to further protect the people, the legislature was prohibited from passing any local or special laws to grant the right to lay any railway tracks, or to give any special or exclusive privilege, immunity, or franchise.[2]

In these measures, the conditions of the period are reflected. There had grown up the practice of granting special rates to favored shippers and to favored localities. So strong was the opposition to discrimination that there developed a movement among the people to regulate the railroads. So strong was the movement that it affected every section of the country. State legislatures fixed maximum freight and passenger rates, provided fines for discrimination among shippers, and, in some states, established boards or commissions to enforce the law.[3]

Closely associated with the corporate interest was that of the disposition of public waters of the state for purposes of irrigation. In the convention it was recognized that the primary right of ownership of all streams was vested in the state, and that the waters should be subject to the control of the legislature.[4] The importance of this feature of Colorado was further stressed by the convention through a memorial to Congress in which it

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1 Ibid., Art. XV, Sec. 8.
2 Ibid., Art. V, Sec. 25.
3 E. R. Johnson, History of Domestic and Foreign Commerce of the United States (1915), Vol. I, pp. 308 ff.
4 Proceedings of the Constitutional Convention, p. 44.

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was urged that the forests should be protected by federal action, in order that the water supply should be preserved. In addition to requesting that the lands under the control of the Federal Government should be preserved in their forested condition, it was desired that the states and territories be given control of the lands contributing to the water available for irrigation.[1]

As a further safeguard, the general assembly was instructed to enact laws to protect the forests upon the lands of the state and the lands of the public domain which should be given by Congress into the control of the state. Encouragement to all persons and corporations to construct ditches, canals, and flumes for purposes of irrigation was given by guarantee of the right of way across all lands, upon payment of just compensation.[2] Upon application, the boards of county commissioners should be granted the right to fix the maximum charge for the use of water in their respective counties, without regard to the agency furnishing the water, whether it should be private individuals or corporations.[3]

It was in the consideration of the public lands, however, that the members of the convention found satisfaction and encouragement. In the enabling act, sections numbered sixteen and thirty-six in every township were set aside for the support of common schools.[4] If the State of Colorado should be admitted into the

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1 Ibid., pp. 297 ff.
2 Constitution of Colorado, Art. XVI. Sec. 7.
3 Ibid., Art. XVI, Sec. 8.
4 Enabling Act, Sec. 7.

Union in accordance with the act, fifty sections of unappropriated public lands should be selected and located by direction of the legislature for the purpose of erecting public buildings at the capital of the state, for legislative and judicial uses.[1] Another fifty sections were granted for erecting a penitentiary or state prison;[2] and seventy-two sections were set aside for the support of a state university.[3] Of the proceeds of the sale of agricultural lands, by the United States, after the admission of Colorado, five per cent should be paid to the state for purpose of internal improvements as the legislature might direct.[4] In the disposal of all the lands, it was declared that the mineral lands should be exempted from the operation and grants of this act.[5]

This land granted to the state was safeguarded in its disposal by the same act, in the provision that the two sections of land in each township should be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre; and the proceeds, when the land should be sold, should constitute a permanent school fund, the interest of which should be expended in support of common schools.[6] In the discussions in the convention, it was proposed further to protect the school lands by provision against hasty sale.[7] The administration of the public

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1 Ibid., Sec. 8.
2 Ibid., Sec. 9.
3 Ibid., Sec. 10
4 Ibid., Sec. 12.
5 Ibid., Sec. 15.
6 Ibid., Sec. 14.
7 Proceedings of the Constitual Convention, pp. 71,72,109,277.

lands was left in the hands of a state board of land commissioners, composed of the governor, superintendent of public instruction, secretary of state, and attorney general, which should act under the regulations prescribed by law.[1]

When making report to the convention, the committee on revenue and finance recommended that taxation should be uniform on the same class of subjects throughout the state, and that it should be levied and collected under general laws. It was suggested that certain properties should be exempt from taxation; such as, public property used for public purposes, actual places of religious worship, places of burial not used or held for private gain, property owned by colleges and other institutions of learning not used for private advantage, institutions of public charity, and hospitals.[2] To promote the development of the mining industry, it was advocated "that mines and mining claims bearing gold, silver, and other precious metals, except the net proceeds and surface improvements thereof, shall be exempt from taxation for the period of ten years . . . . . and thereafter be taxed as may be provided by law."[3] Although the general assembly was not permitted to levy taxes on local divisions of the state, it was authorized to extend that power to local authorities. The power to tax corporations or corporate property should never be relinquished by any contract to which the state

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1 Constitution of Colorado, Art. IX, Sec. 9, 10.
2 Proceedings of Constitutional Convention, pp. 60, 484.
3 Ibid., pp. 483, 484.

should be a party; and all corporations within the jurisdiction of the state should be subject to taxation for all purposes, on the real and personal property owned or used by them. And it was recommended further that there should be a limitation on the power of the state to impose taxation. The state tax on property should never exceed six mills on the dollar of valuation, and whenever the taxable property of the state should amount to one hundred million dollars the rate should not exceed four mills on each dollar of valuation; and whenever the taxable property should amount to three hundred million dollars the rate should never exceed two mills on the dollar, unless the proposition to increase such tax should be submitted to a vote of the people.[1] Every law creating a debt or authorizing a loan should provide for a sinking fund for its payment within fifteen years but not in less than ten years.[2]

As a means of administering the plan of taxation proposed, a board of equalization, composed of the governor, state auditor, state treasurer, secretary of state, and attorney general, was provided; and in each county the board of county commissioners was constituted the board of equalization of the county. As the name implies, the duty assigned to the boards was to adjust and equalize the assessed valuation of real and personal property, subject to taxation.[3] An examination of the constitution shows

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1 Proceedings of the Constitutional Convention, p. 484.
2 Ibid., p. 485.
3 Ibid., p. 485.

that the report of the committee on revenue and finance was accepted without material change.[1]

In their efforts to provide for education, the members of the convention had, not only the experience of the older states to guide them, but also the policies of the territorial government of Colorado. Schools had been established in the Gold Region even before the organization of the territory; but, with the establishment of the territorial government, laws were enacted to provide for schools similar to those of Illinois. In 1861 a law was enacted giving the governor authority to appoint a territorial superintendent of common schools, whose duties were much like those of the later superintendent of public instruction.[2] At the second session of the legislature, the provision for school revenue was supplemented by a law requiring "that one claim of one hundred feet in length on any new mineral lode, of either gold bearing quartz, silver, or other valuable metal, discovered in the territory, shall be set apart and held in perpetuity for the use and benefit of schools in this territory."[3] Although each successive legislature gave attention to the interests of the schools, little was actually accomplished. It did, however, offer encouragement to the members of the convention to proceed to plan for the educational system of the new state.

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1 Constitution of Colorado, Art. X.

2 First Biennial Report of Superintendent of Public Instruction, p. 26; Council Journal of Legislative Assembly of Territory of Colorado, First session, 1861, -p. 6.

3 W. F. Stone, History of Colorado (1918), Vol. 1, p. 585.

that the report of the committee is devoted and finally not only-
of without material change.[1]

In their efforts to provide for education, the members of the
committee had, not only the experience of the other states in
public home, but also the policies of the municipal government
of Cincinnati. Cincinnati had been criticized in the Ohio legislature
from time to time for mismanagement of the city's affairs. In 1903 a
committee of the municipal government, then was created to
provide for school district reorganization. In 1905 a
law was enacted giving the governor authority to appoint a tempo-
rary superintendent of common schools, which before was only
the duty of the lower superintendent of public instruction.[2]
In the period preceding of the legislature, the majority for
public schools was strengthened by a the provision "that the
ballot of one hundred that is taken on any school tax, or
other call having power, either, or other voting rights.
discussed in the testimony, which he was quoted and held is ver-
ployed for the use and benefit of schools in this district.
Attorney and prominent Cincinnati lawyer discussion in the legis-
ture at the school, public supervision school.[3] In fact,
however, other instruments in the method of the provision is
phased in view for the electoral system of the our state.

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1 Constitution of Colorado, ibid. 2.
2 Report Annual Report of Superintendent of Public Instruc-
tion, p. 24; Annual Report of Superintendent Schools of Cincinnati
of Colorado, first session, 1906, p. 2.
3 M. E. Shaw, Education of Colorado (1910), ch. 1, p. 109.

The committee on rights of suffrage and elections, in their report, recommended that an educational qualification should be required of electors, to take effect not earlier than 1890.[1] On the same day the committee on education and educational institutions reported a detailed plan for general education.[2]

As soon as practicable, the general assembly should provide for the establishment and maintenance of a uniform system of free public schools throughout the state for the benefit of all residents between the ages of six and twenty-one years. School districts of convenient size should be established in the several counties, to be presided over by boards of education, consisting of three or more members, elected by the people of the district. In each district, schools should be maintained for at least three months of each year.

Provision for the support of the system was made through the public school fund of the state, which should remain forever inviolate and intact; the interest only being distributed among the districts according to law. The fund, it was stated, should consist of the proceeds of the lands granted by the general government to the state for school purposes, all estates that should escheat to the state, and all other grants, gifts, or devises that should be made for educational purposes.

In order that education should be general, the legislature was given the right to require by law that every child of sufficient

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1 Proceedings of the Constitutional Convention, p. 583.
2 Ibid., 585 - 588.

physical and mental ability should attend the public school during the period between the ages of six and eighteen years for a time equivalent to three years, unless educated by other means. The requirement of any religious test or qualification in connection with admission to the schools, either as pupil or teacher, was prohibited; also, the inclusion of any religious doctrine in the teaching. The interest of the period in the negro was suggested in the clause, "nor shall any distinction or classification of pupils be made on account of race or color."

The administration of the school system was provided for by a state board of education, composed of the superintendent of education, the secretary of state, and the attorney general, whose duties should be prescribed by law. In each county a county superintendent of schools should co-operate with the state board, under conditions prescribed by law. This latter official, in conjunction with the state board of education, should administer the public lands set aside for purposes of education.

The higher education within the state was provided through the University of Colorado. This institution should be governed by a board of regents, elected by the qualified electors of the state at the general election.

When the convention considered the suffrage question, interest centered around the agitation for equal suffrage. Petitions from groups of people in the territory were sent to influence the members to favor suffrage for women.[1] Appeals came from other

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1 Proceedings of the Constitutional Convention, pp. 165,261.

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sections of the United States calling attention to the practical success of the experiment with equal suffrage in Wyoming, to the favorable attitude of the people of Minnesota, and to the beneficial results of suffrage for women in England, Holland, Austria, and Sweden.[1] The promoters of the movement pointed to the early effort made to introduce the equal suffrage question into the territorial legislature of Colorado, and to the recommendation of the governor in his annual message of 1870.[2] Although these efforts were without successful conclusion, they served, nevertheless, to keep alive the interest in the subject.

Anticipating the admission of Colorado to statehood, a convention of the advocates of equal suffrage assembled in Denver in January, 1876, to lay the foundations of equal suffrage in the new State. The two-day session concluded its effort with the appointment of a committee to appear before the constitutional convention to present the claims of the women to recognition in the constitution. The committee "was received courteously by the convention and listened to with attention, but with non-committal silence."[3] In February, the convention gave consideration to two reports from the committee on suffrage, appointed by the convention. The minority report, signed by two members, favored equal

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1 Proceedings of the Constitutional Convention, p. 314.
2 Helen L. Sumner, Equal Suffrage (1909), p. 15.
3 Joseph G. Brown, The History of Equal Suffrage in Colorado (1898), pp. 7 - 9.

suffrage; the majority report simply set forth the qualification for voters, that all voters should be male citizens of twenty-one years of age, with the exception of those voting for school district officers. When the minority attempted to amend the report before its acceptance, the amendment was lost by a vote of twenty-four to eight.[1] The supporters of equal suffrage did succeed in having a resolution accepted to instruct the state legislature to provide an equal suffrage law and submit it to a vote of the people.[2] Since the movement had not prospered satisfactorily, its advocates took it again to the territorial legislature, which was then in session. As in all preceding efforts with this body, the agitation was without result.[3]

The conclusion of the effort for equal suffrage as a feature of the beginning of state government was disappointing to its adherents. As a last resort, an attempt was made for universal suffrage by introducing a clause into the constitution making it obligatory upon the first legislature to enact a law conferring the elective franchise upon women. The law, however, was to be submitted to a vote of the male citizens at the first election thereafter, before it should become effective.[4]

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1 Ibid., p. 9.
2 Sumner, op. cit., p. 15.
3 Ibid., p. 15.
4 H. H. Bancroft, History of Colorado, Nevada, and Wyoming (1890), p. 473; Constitution of Colorado, Art. VII, Sec. 2.

[illegible] [illegible] [illegible] [

During the period of the convention, petitions were presented by many groups asking that recognition of God be made in the constitution. In answer to the many requests, there appears in the preamble the expression, "with profound reverence for the Supreme Ruler of the Universe."[1] Likewise, the members of the convention were willing to give their approval of a moral issue which was held before that body with considerable persistence. Probably due to the concern of the portion of the population which had lived under the constitutions of the southern states, it was declared that "No person who shall hereafter fight a duel, or assist in the same . . . . . shall hold any office in the State."[2]

The influence of the South is indicated again by the introduction of the county form of local government. The conditions which produced it in the southern states existed in Colorado: the settlements were scattered; and the colonists came usually as individuals rather than as organized groups. In addition, the nature of the occupations and the conditions surrounding them favored the county plan of local government. Stock raising was a prominent interest, and the agricultural lands were narrow strips along the rivers and streams. Consequently, the several counties of the territory were declared to be counties of the state.[3]

The willingness of the convention to give consideration to the special interests and the varied groups of the community and

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1 Proceedings of the Constitutional Convention, pp. 163, 201, 228, 265, 663.

2 Ibid., pp. 612, 695; Constitution of Colorado, Art. XII, Sec. 12.

3 Constitution of Colorado, Art. XIV, Sec. I.

to make concessions to them is indicated by the recognition of the nationalities resident in the territory.[1] It was required that the constitution should be printed in both Spanish and German, for distribution among the people speaking those languages; and it was provided in the constitution that, until 1900, the publication of the laws passed at each session should be in Spanish and German, as well as in English.[2]

In considering plans for the amendment of the constitution, the convention discussed the Maryland plan of action by two successive legislatures.[3] There was added to the plan, by resolution, the submission of the proposed amendment to the vote of the electorate, under such arrangement as the general assembly should provide. To guard against the frequent altering of the document, it was declared that no amendments should be submitted oftener than once in five years. Although the measure appears to have had favorable consideration, it was modified during the second month of the session of the convention by removing the five-year limitation and substituting the restriction on the power of the general assembly to propose amendments; which was, not more than one article of the constitution should be subject to amendment at the same time.[4] The plan adopted for a general revision of the constitution was essentially as follows:

1. The General Assembly may at any time, by a vote of two-thirds of the members of each house, recommend to the electors of

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1 Proceedings of the Constitutional Convention, pp. 100, 638.
2 Constitution of Colorado, Art. XVIII, Sec. 8.
3 A. N. Holcombe, State Government in the United States (1916), p. 98; Proceedings of the Convention, p. 140.
4 Proceedings of the Constitutional Convention, p. 181.

the state that they decide by vote at the next general election whether a convention shall be called to revise, alter, and to amend the constitution of the State.

2. If a majority of those voting shall declare in favor of the convention, the General Assembly shall, at its next session, provide for calling the convention.

3. The convention shall meet within three months after the election to prepare revision and amendment, as may be deemed necessary.

4. The proposals for amendment shall be submitted to the electors for their ratification or rejection within six months after the adjournment of the convention.[1]

This democratic plan, sometimes called the Connecticut plan, because first used in that state, gives to the electorate the final decision and makes its action more than merely advisory.

Estimate of the Constitution

The subjects which have been discussed were introduced to show the nature of the work of the convention and to suggest the variety of interests presented for the consideration of the members. From the numerous suggestions and the mass of materials before the convention, a constitution was framed to include nineteen articles composed of two hundred seventy-eight sections. This excessive length gives the impression that it is a code of laws rather than a brief statement of principles to serve as a constitution. It reflects, however, the tendency to include in the state constitution a recognition of the many sets of interests of the people. The pro-

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1 Constitution of Colorado, Art. XIX, Sec. 1.

the point that they begin to vote on the very general objects
which a constitutional state may notice in review, after, and to amend
the constitution of the state.

3. If a majority of them voting shall decline to serve if
the convention, the general assembly shall, at the next session,
provide for calling the convention.

4. The convention shall meet within three months after the
electors in favor of a convention are ascertained, if any be found
necessary.

5. The convention shall consist of delegates in the
elections for state legislature on propositions which may be
the alternatives of the convention.

This hypothetical plan, sometimes called the "initiative plan",
because first used in that state, plans to the constitutive the final
initiative and make its action more than merely advisory.

<u>Stability of the Constitution</u>

The subjects which have been discussed were introduced in
view the values of the work of the convention and to consider the
stability of constitutions considered the one consideration of the questions.
Then the chairman suggestions and the view of relevants before the
convention, a constitution was proposed to which minor variations
imposed of the United Commonwealth-Will Million. This proposed
Judge also the impression that it is a work of time which
a brief statement of principles to serve as a constitution. In re-
ferring, however, the business to publish in its view Commonwealth
a description of the work with of instructs of the people. The pro-

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3 <u>Constitution of Colorado</u>, Art. XIX, Sec. 3.

visions of this constitution, like all those of the more recent period, may be classified into the five groups:[1]

1. Those dealing with the organization and operation of government.

2. Those imposing limitations upon the legislative power.

3. Those incorporating into the constitution matters of legislation.

4. Those specifically granting power to the legislature.

5. Those requiring that the legislature take certain action.

In dealing with the organization of government, the details were fully covered. Not only were the offices created but detailed provisions regarding them were included. Many limitations were placed on the legislature, due to distrust of, and dissatisfaction with, such bodies in the United States. Forty sections of the constitution were devoted in part or wholly to this purpose. In at least ten sections, direct legislation was provided; while twenty-six sections were devoted to granting power to the legislature, specifically, to legislate. Further specific direction was given in twenty-nine sections that the legislature should enact laws relative to definite interests at some stated or some indefinite time in the future. The general nature of the constitution has been explained as follows:

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1 W. F. Dodd, "The Function of a State Constitution," Political Science Quarterly, Vol. XXX, pp. 212, 213; James Bryce, Modern Democracies (1921), Vol. II, p. 11.

The constitution provided for the customary biennial limited session of a legislature based on census population, with legislative powers closely limited and regulated, and many long articles dictating policy on important topics of legislative jurisdiction. The governor had a two year term and the regular and the item veto, judges were elective and the system of courts carefully defined. Suffrage had the usual provision for manhood suffrage, but with a stipulation that the legislature might after 1890 demand an educational qualification . . . . . The question of prohibition assumed some definiteness by the prohibition of the manufacture or sale of spurious, poisonous, or drugged liquors. Temporarily laws were to be printed in English, Spanish, and German. The amending article made simple but excellent provision both for amending and revising the constitution.[1]

In presenting the constitution to the people of Colorado, a committee of the convention prepared an address to the inhabitants in which attention was directed to features of the work that most probably would gain approval:

The end sought to be accomplished was to secure a just and economical administration of the department of state, and, with this purpose in view, especial effort was made to restrict the powers of the legislative department, by making all laws general and uniform in operation; to establish uniformity in the judicial department thereby furthering the ends of justice; to prevent the corruption of public officials; to provide for the safe keeping of all public funds, and to protect the people from unjust monopolies, and the oppression consequent upon voting of bonds and other kinds of indebtedness to corporations.[2]

Acceptance of the Constitution

Although the constitutions which had been submitted previously to the people of Colorado had been rejected by considerable majorities, this time conditions appear to have been favorable. There was little evidence of political ill feeling; there was nothing in the instrument

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1 J. Q. Dealey, Growth of American State Constitutions (1915), pp. 87 -88.

2 Proceedings of the Constitutional Convention, p. 724.

at variance with the amendments to the federal constitution; and both Congress and the people of the territory were satisfied that "Colorado was entitled to become a sovereign state, with boundaries as ample as in the territorial days."[1] When the vote was taken, on July 1, 1876, the constitution was accepted by 15,430 and disapproved by only 4,053.[2] The vote which was certified to the territorial governor by counties was reported by him to President Grant, together with a copy of the constitution and copies of the proclamations.[3] On August 1, 1876, the president proclaimed "the fact that the fundamental conditions imposed by Congress on the State of Colorado to entitle that State to admission to the Union have been ratified and accepted, and that the admission of the said State into the Union is now completed."[4] The final act of admission, however, was the report of the Committee on Judiciary to whom were referred the credentials of James B. Belford, first member of Congress chosen by the people of the new state:

> It appears from the copy of the constitution, ordinances, and certificate herewith attached, not only that the government framed by the people of Colorado is republican in form, but that they have complied in every particular with the conditions prescribed by Congress.[5]

Subsequent Changes by Amendment

The subsequent development of the state constitution came through numerous amendments. The plan of amendment which was placed in the

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1 Bancroft, op. cit., p. 433.

2 Frank Fossett, Historical, Descriptive and Statistical Work on the Rocky Mountain Gold and Silver Region (1876), p. 130.

3 Routt, "Territory and State", Bancroft Mss., No. 50.

4 44 Cong., 2 sess., House Report, No. 67. Proceedings of Constitutional Convention, p. 736.

5 44 Cong., 2 sess., House Report, No. 67.

See note next page.

original constitution, with some modification, has been used to modify it, with undue frequency. One of the changes in the instrument, accomplished in 1910, provides for its amendment through the use of the initiative, according to the procedure required for the enacting of law by the people acting directly by petition and by reference in popular election.[1] In fact, a measure now may be called either a law or a constitutional amendment, at the discretion of those who propose it. If it is called a law, it is subject to all the constitutional limitations; but, if it is called an amendment, it supersedes any conflicting provisions of the constitution.[2]

Since 1878, when the first change in the constitution was proposed by the legislature, the instrument has been amended thirty-five times. At the present time there are pending also four proposed amendments which are to be submitted to the people at the next general election.[3] The earlier amendments, in general, were introduced to modify the original constitution with respect to "those errors only which the course of events develops",[4] although some exceptions to this practice may be found. For example, the regulation of hours of labor, which was introduced into the constitution

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A disagreement over the election of the representatives led to a second election in November, 1876, which resulted in the election of Thomas Patterson in place of James B. Belford. The latter became a candidate two years later and was elected.

1 Constitution of Colorado, Art. V, Sec. I.

2 W. F. Dodd, "The Function of a State Government", in Political Science Quarterly, XXX, pp. 217-8.

3 Session Laws of 1921, pp. 172-9.

4 Bancroft, op. cit., p. 433.

in 1902, has no legitimate place in a state constitution.[1] The more recent modifications include many of trifling nature. Among the three amendments proposed by the legislature in 1921 and pending, one is to allow the state university to maintain work in medicine and dentistry in the city of Denver.[2] On the other hand, fundamental principles are in the process of being modified, as indicated by the following:

> The General Assembly shall provide by law the right and power of aliens who are or shall be, under Acts of Congress or Treaties, ineligible to American Citizenship; to acquire, inherit, possess, enjoy and dispose of property, real and personal.[3]

A survey of the amendments of the constitution shows decisively that there is no clear distinction between constitutional principles and statute laws, since the practise of embodying legislative detail in the constitution is common. And since 1910 the distinction between the method of enactment of statute law and the making of constitutional amendment has been disregarded.

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1 C. L. Jones, Statute Law Making In the United States (1912), p. 5.

2 Session Laws of 1921, pp. 176-8.

3 Ibid., pp. 172-3.

CHAPTER II

THE ELECTORATE AND ELECTIONS

The Electorate

When the constitution was made in 1876, the framers recognized the principle of popular control of government through writing into the bill of rights the provision "that all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only."[1] The principle here expressed has been, to an unusual degree, a governing principle in the conduct of government in the state. The very early constitutions, which were experimental in nature, did not provide for any other than the usual provisions relative to suffrage.[2] In the constitution which was accepted by the people at the time when Colorado was admitted as a state, the qualifications of electors were generally prescribed.[3] Every person over the age of twenty-one years who possessed the following qualifications could vote at all elections: he must be a citizen of the United States, he must have resided in the state twelve months, and he must have resided in the county, city, and other districts such time as may be prescribed by law.

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1 Constitution of Colorado, Art. II, Sec. 1.

2 "Constitution of State of Jefferson", Rocky Mountain News, August 20, 1859; "Constitution of 1864", Rocky Mountain News, July 13, 20, 1864.

3 Constitution of Colorado, Art. VII, Sec. 1.

CHAPTER II

THE ELECTORAL ARRANGEMENT

The Franchise

When the constitution-makers met in 1787, the Founders realized the potentiality of popular control of government through voting. Not the will of either the president "that will-institutional" nor is yielded to was derived from the people; that all government, of right, originates from the people, is founded upon their will only.[1] The principle here expressed has been, in the general degree, a governing principle in the conduct of government in the states. The early constitutions, which were adjudicated in haste, did not provide for any other than the most restrictive rules in qualifying in the constitution which was accepted by the people of the state when Colorado was admitted as a state, the qualifications of electors were generally prescribed. Every person over the age of twenty-one years was granted the following qualifications could vote at all elections: he must be a citizen of the United States, he must have resided in the state twelve months, and he must have resided in the county, city, and other districts such time as may be prescribed by law.

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1. Constitution of Colorado, art. VII, Sec. 1.
2. "Constitution of State of California", Pacific Monthly Home, August 20, 1849; "Constitution of Iowa", Pacific Monthly Home, July 31, 1846.
3. Constitution of Colorado, Art. VII, Sec. 2.

The residence qualification was modified by a subsequent clause which protects certain groups from disqualification on account of either occupation or condition. No person may gain a residence or lose it on account of civil or military service, nor on account of attendance at an institution of learning, nor on account of being an inmate of any poor house, asylum, or prison maintained at public expense.[1] No person, however, who is under guardianship, who is insane, or who is confined in any public prison is entitled to vote. But any person who was a qualified elector before imprisonment and who is released by pardon or who has served out his term of imprisonment regains all rights of citizenship, except as provided in the constitution.[2] Although the constitutional convention did not require an educational qualification for voters to exercise the suffrage, it did recognize the value of this and made provision for it in the future by suggesting that the general assembly was empowered to prescribe by law an educational qualification.[3] The limitation was inserted, however, that the law should not take effect prior to 1890, and no qualified voter should then be disqualified by it.[4]

The qualifications which were imposed by the constitution have been defined further by legal enactment. The voter is required to reside in the county ninety days, in the city or town thirty days, and in the ward or precinct ten days.[5]

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1 Ibid., Art. VII, Sec. 4.
2 Revised Statutes, Sec. 2148.
3 See above, p. 20.
4 Constitution of Colorado Art. VII, Sec. 3.
5 Laws of 1881, p. 113, Sec. 1; Laws of 1903, p. 214, Sec. 1.

The problem qualifications are indicated by a substantial class; which involves certain rights from disqualifications on account of either occupation or condition. In certain cases such a restriction is made in a manner of right to political activity, but no account of citizenship as the qualification of jurisdiction. Air in reverse of being on behalf of our own laws, orders, or policy motivated at public expense. The power, however, can be under guardianship, who is insane, or who is subject to any public crime or entitled to vote. The act power was not a qualified right before imprisonment and was in related by public or who the moral act is keep of institutions. Every right of citizenship, which is provided in the constitution. Although the constitutional guarantees did not exclude an educational qualification for voters to exercise the affirmative in the recognize the value of this and made provision for it by the states by guaranteeing that the general assembly was required to provide by law an educational qualification. The legislature was granted, however, that the law should not take effect until to vote qualified voter should come to disqualified by it.

The qualifications which have issued by constitutions have been tested therefore by legal enactment. The voter is required to reside in the county admitted date, in the city or town before city, and in the ward or precinct the date.

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3. Ibid., art. VIII, Sec. 6.
4. Southern Statutes. Sec. 2142.
5. See above, p.
6. Constitution of Illinois. Art. VII, Sec. 3.
7. Laws of 1909. p. 347, Sec. 1; Laws of 1911. p. 414, Sec. 1.

In accordance with the constitutional provision that the general assembly should, at its first session, enact laws to extend the right of suffrage to women of lawful age and otherwise qualified,[1] the general assembly of 1893 provided that sex should no longer be a qualification for the suffrage privilege.[2] In the earlier efforts to secure equal suffrage, the sentiment of the people had been one of opposition; this time, however, the referendum vote indicated a change of opinion, for the vote was 35,798 for, and 29,451 against, which provided a liberal favorable majority of 6,347.[3] When the principle of equal suffrage was incorporated in the constitution in 1903, the vote of the people showed a majority of approximately 36,000 in favor of the measure.[4]

In promoting the interests of democratic government, the laws of Colorado have usually favored leniency in their application to the suffrage. The interpretation of the constitutional requirement that the elector be a citizen of the United States permitted a declaration of intention four months previous to the election to be substituted for actual citizenship. The interest in citizenship stimulated by the Great War led the legislature to enact in 1921 that the oath of the challenged voter should include the declaration of actual citizenship.[5]

Thus the electorate now includes all citizens of the United States, twenty-one years of age, who have resided in the state twelve

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1 Constitution of Colorado, Art. VII, Sec. 2.
2 Revised Statutes, Sec. 2147.
3 Legislative Manual, 1903 p. 237.
4 C. L. King, History of Government of Denver (1911), p. 170, note; Laws of 1901, p. 107; Constitution of Colorado, Art. VII, Sec. 1.
5 Laws of 1921, p. 289.

In accordance with the constitutional provision that the penal assembly should, at its first session, enact laws to secure the right of suffrage to women of lawful age and religious qualifications, the general assembly at last provided that one should be known as qualifications for the suffrage privilege. In the public affairs to women social reformers, the movement of the people had been one of opposition this time, however, the convention was interested a change of opinion, for the vote was 13,777 for, and 7,411 against, which provided a liberal franchise applying to 6,347. Then the publicity of social suffrage was independent of the qualifications in 1867, for vote of the people showed a majority of approximately 20,000 in favor of the measure.

In pursuing the history of Dangerfield's movement, it has been of interest has usually found instances in their relations to the suffrage. The interpretation of the constitutional requirement that the denier be a citizen of the United States provoking a determination of intention from merits provided to the question to be submitted for actual citizenship. The interest is mainly only relevant by the fact for the legislature to grant in 1867 that the vote of the individual were required before the publication of report adjournment.

Thus the elaborate and complete all provisions of the United States, twenty-one years of age, but have resided in the state twelve

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1 Constitution of Colorado, Art. VII, Sec. 2.
2 Session Laws, 1867.
3 Report, Sec. State, 1870, p. 24.
4 , p. 1, Journ. Journal of Convention of Denver (1871), p. 320.
Rules Laws of 1867, p. 247; Session Laws of Colorado, Art. VII, Sec. 2.
6 Laws of 1868, p. 247.

months, in the county ninety days, in the city or town thirty days, and in the election district ten days.[1]

Party Organization

That the body of electors may function to the best advantage of the state, party groupings are now legally recognized. Previous to 1910, the condition of the political party in Colorado was similar to that which had prevailed in the states generally until very recent times. The party had been organized informally, at least, without legality. There had been, to be sure, some restrictive regulations to control the party activities as early as 1887.[2] With the legislation of the special session of 1910, however, the condition of the political party organization was materially changed. For the first time in the history of their operations in the state, these organizations, which James Bryce calls the second greatest development of American democracy,[3] were given legal definition and legal position. This legal recognition implies an organization; that is, a constitution, rules of procedure, officers and some practicable test of party affiliation.[4] According to the definition contained in the primary law, the political party cannot be a mere propagandist association; it must be a well defined association of qualified electors who have participated in an election, with representation on the official ballot by either regular party candidates

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1 Mills Annotated Statutes, Sec. 2337.
2 Laws of 1887, p. 347.
3 James Bryce, Modern Democracies (1921), Vol. II, p. 449-50.
4 A. N. Holcombe, op. cit., p. 165.

or by individual nominees. Its candidate for governor must also have received ten per cent. of all the votes cast for the office of governor in the preceding election.[1]

The political party functions chiefly through the various party committees which have charge of the party interests. In each precinct, at each biennial primary election, a committee man and a committee woman are chosen by each party to represent that precinct in all ward or subdivision committees which may be formed. They represent the local district also in the county central committee of each party; and likewise they serve on the city or municipal central committees. Each committee meets within five days after the election to select a chairman and a vice-chairman, who is a woman. The representatives of the county central committee constitute the state central committee; they also constitute the congressional, judicial, senatorial, and representative committees for the counties comprising these districts respectively. Additional members of the state central committee chosen by the county central committee, two for each ten thousand votes cast for governor at last preceding election, are allowed the counties having such a vote.[2]

The service rendered by these committees is varied. In the main they arrange party assemblies, provide for vacancies in nominations which may occur before the general election,[3] and adjudicate

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1 Primary Election Law, Sec. 2; Election Commission v. the People, 58 Colo., 105. Reference is to the Election Laws of Colorado, Primary and General, compiled by the secretary of state for the election of 1920.

2 Primary Election Law, Sec. 21.

3 Ibid., Sec. 21.

[illegible] institutional weakness. In addition the reformer must also [illegible] the work, at all the crucial work for the action or [illegible] in the cross-fire elections.

The political party discussion actually through the various party committees which have stress of the party activity. In such [illegible], at some financial policy-making, a committee was and a committee woman was chosen to work hard to overcome this revolutionary work or reformative committees which may be created. They implement the local industrial line in the county national committee of each party and therefore they work on the city or municipal [illegible] committees. This committee meets which this city party the [illegible] is defined a platform and a [illegible], so, in a [illegible]. The representatives of the county [illegible] committee [illegible] the city municipal committees; they also [illegible] the [illegible], political, economical, and [illegible] committees [illegible] the committee [illegible] [illegible]. [illegible] of members of the city municipal committee elected by the county committee, how are such the [illegible] votes and the [illegible] of [illegible] election, are allowed the committee [illegible] work a rule.

The works [illegible] by these committees is [illegible]. In the [illegible] they [illegible] party [illegible], [illegible] the [illegible] position which may [illegible] before the general election, and [illegible]

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1. Tchaeng Ellington Lum, Chen, Ai Ellington Tsungtsien v. Sin Tsungtsi, op. cit., [illegible]. Chinese in the [illegible] [illegible] of [illegible] Tsung, Chinese and Canada, reported to the committee of [illegible] for election of 1922.

2. Chinese Ellington Lum, Chen, op. cit.

all controversies which may arise within the party.[1] They may serve directly or they may authorize sub-committees to exercise any or all their powers.

Nominating Methods

The political party is the agency which functions in the expression of public opinion, through elections, in the government of the state. The first service performed in connection with an election is the nomination of candidates. All nominations for offices, in federal, state, and local government, with the exception of the nominations for special elections to fill vacancies, nominations to municipal offices, the selection of delegates to national political assemblies, and the nomination of presidential electors, are made by political parties by direct primary elections.[2] For the purpose of making nominations of candidates to be voted for at the general election in November, a direct primary election is held biennially at the regular polling places in each precinct the second Tuesday of September of the even numbered years. Every primary election must be held at least four weeks before the election which it precedes.[3]

The names of candidates for nominations to be made at the primary election are placed on the direct primary ballot either by petition or by certificate of designation by assembly. The petition to place the name of a candidate on the primary ballot contains the name of the person desired as a candidate, together with

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1 People ex rel. Lowrey v. Dist. Ct. 2nd Jud. Dist., 32 Colo., 15.
2 Primary Election Law, Sec. 1.
3 Ibid., Sec. 3.

the residence, place of business, and party affiliation. The petition must be signed by three hundred qualified voters, when the candidacy is for an office with jurisdiction over territory greater than the county; for other offices, the number of petitioners need not exceed one hundred. In any case, the number of petitioners need not exceed ten per cent. of the number of votes cast for governor by the political party at the last preceding election in the political division.[1] The effort is made to eliminate irregular practises unfavorable to the success of the plan for securing nominations by making the act of signing the petition a declaration under oath that the signer intends to vote for the proposed candidate, who is placed in nomination in behalf of the political party named in the petition, and that the signer is affiliated with the party named. He further declares that he has not signed a petition for the candidacy of any other person for the same office.[2] Before the petition can be filed it becomes necessary for the person whose candidacy is proposed to endorse his acceptance on the petition.

When the petition is complete with respect to the number of signatures and the legal acceptance, it is filed with the proper official, who, in the case of a candidate for any national, state, or district office greater than a county, is the secretary of state;

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1 Primary Election Law, Sec. 5.
2 Ibid., Sec. 5

and, in the case of the candidate for any other office, excepting municipal and city, is the county clerk. This filing of the petition must be done not more than fifty nor less than thirty days prior to the primary election. In the case of a municipal or city candidate, the petition must be filed in the office of the clerk of the municipality or city not more than thirty nor less than twenty days prior to the election.[1] In lieu of the petition method of placing names on the direct primary ballot, assembly designation of candidates for nomination may be, and usually is, made by assemblies of the several political parties. Delegates to these assemblies of political parties are selected according to rules and regulations of the respective parties provided for the purpose.[2] The party regulations are supplemented by the following legal requirements: (1) in any such assembly only one ballot upon candidates for each office shall be taken; (2) every person receiving ten per cent. or more of the votes of the accredited delegates to the assembly shall be certified and placed upon the direct primary ballot; and (3) all candidates designated and certified by the assembly for a particular office shall be placed upon the primary ballot in the order of the vote received by the candidates; provided, that acceptance is filed within seven days. The lists of candidates designated by assembly are followed by the names of candidates by

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1 Primary Election Law, Sec. 6.

2 In each precinct of the county, party caucus elections are held, in the manner provided by the party committees in their call therefor, to elect delegates to the county assemblies; and these delegates in party county assembly elect delegates to the state assembly. See Rules of the Republican State Central Committee and Plan of Organization of the Democratic Party.

by petition, arranged in alphabetical order.[1]

In addition to the party nominations here discussed, there is opportunity for the nomination of those who do not wish to affiliate with a political party. A place on the ballot at the regular election may be secured by a petition properly signed, by the proposed candidate making formal acceptance, and by depositing the petition with the proper official.[2]

The names of candidates are placed before the voters by the county clerk, who is authorized by the secretary of state to publish once the lists with all conditions of the election, at least ten days before election, in two newspapers representing the two political parties which polled the largest number of votes at the last preceding election.[3]

The electorate is futher instructed with respect to the election by a sample ballot, which is prepared by the county clerk ten days before the primary. It is a duplicate of the official ballot, except that it is on colored paper. The official ballots are uniform in size and color; they must be white and printed in black ink. Each party has its own separate ballot which contains, at the head, the party designation, and the lists of candidates for the several offices, together with blank spaces following each list

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1 Primary Election Law, Sec. 4.
2 Primary Election Law, Sec. 26.
3 Ibid., Sec. 7, 8.

of candidates for the voter to write in the names of candidates, not on any other ballot, for whom he wishes to vote.

The act of voting is comparatively simple: the voter receives the ballots of all parties, retires to the booth, where he marks the ballot of the party with which he is affiliated by placing a cross in the space opposite the name of each candidate for whom he wishes to vote. The marked ballot is then returned to the election judge who numbers it according to the order in which it is received, turns a blackened portion of the ballot over the number and pastes it there, and returns the ballot to the voter, who deposits it in the ballot box. The other ballots are deposited in a box for blank ballots.[1] The ballots are counted and the result is publicly announced before the officials are permitted to leave the polls.[2] It should be noted that the general conduct of the primary election is directed by the laws regulating the general elections.[3]

The returns of the primary election, when it extends beyond the limits of a single county, are canvassed by the state board of canvassers, which is a body composed of the governor, secretary of state, auditor of state, treasurer of state, and attorney general, or any three of them. This board meets on the third Tuesday of September to canvass the vote and to file a certificate with the

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1 Primary Election Law, Sec. 9, 11.
2 Ibid., Sec. 17.
3 Ibid., Sec. 13, 14, 17, 20.

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secretary of state to show the results of the election. The votes for all county, city, and municipal offices are canvassed and returns are made in the same manner as at the time of the regular election.[1]

In these elections a plurality of the votes cast is sufficient for the nomination of candidates. In case there are more offices of the same kind than one to fill, then the number of candidates equal to the number of offices to be filled, receiving the highest number of votes, becomes the nominees of the party.[2]

When the primary lists have been arranged the primary election, which is held on the second Tuesday of September, is usually preceded byna period of campaigning on the part of the candidates. The methods which are commonly used in general election are employed in the primary. Professor Merriam states that it is generally conceded that the cost of campaigning when candidates are chosen under direct vote is greater.[3] This is obvious, for there are the same expenses for personal canvass, advertising, public meetings, literature, and conveyances, as in the general election. The legal requirement of the candidate to file a statement, sworn to as to its correctness, with the officer with whom his candidacy is filed, tends to limit campaign expenditure. The legal limit of expenditure for personal expenses, which alone are recognized by law, is five thou-

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1 Ibid., Sec. 24.
2 Ibid., Sec. 23.
3 C. E. Merriam, Primary Election Laws (1908), p. 119.

[illegible] of state to show the results of the election. The [illegible] the all-county, city, and municipal officers who [illegible] are made in the year nominee as at the time of the regular elections.[1]

In these elections a majority of the votes must be obtained by the candidates or nominees. If none there are more officers of the same kind that are to fill, then the number of candidates equal to the number of officers to be filled, receiving the highest number of votes, become the nominees of the party.

When the primary lists have been received the primary election, or held on the second Tuesday of September, in regular year-all-type period of campaigns on the part of the candidates. The primary votes are generally cast in county-district are conducted by Secretary. Partisanship should also be in a particularly strong-ly this the only of campaigns when candidates are crowd under ob-ing some in process. This is obvious, the time is too long an-process for personal contact, advertising, public meetings, litera-ture, and campaigns, as in the general election. The final ap-pointment of the candidate to this a statement, there is no in the [illegible], that the affiliation when the nominee is filed, leads to this popular [illegible]. The last list of [illegible] the [illegible] nominees, which then are [illegible] by law, in the [illegible]

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1. Ibid., Sec. 32.
2. Ibid., Sec. 32.
3. E. E. Sparks, Primary Elections Law (1909), p. 128.

sand dollars for a candidate for United States senator; twenty-five hundred dollars for state officer or representative in Congress; and one thousand dollars for all other officers.[1] The costs of the primary campaigns vary with the candidates: in 1920 the filed reports of contenders for nominations show expenditures of from over forty-five hundred dollars for nomination for United States senator to the fee of two dollars for filing acceptance of a place on the ballot. The average reported expense of the eight elective administration officials was approximately seven hundred and ninety-five dollars. The nomination of the Republican candidate for governor was secured with practically no expense since the incumbant in office had no opposition; but at the same election the contender for nomination for lieutenant governor spent seven hundred and fifty dollars.[2] Securing the nomination for state senator called for the expenditure of one hundred and thirty-eight dollars; that of county sheriff, more than two hundred and fifty.[3]

As a result of this expenditure of money and effort, less than fifty per cent. of the voters appeared at the poles at the primary election. Of the total number of voters who voted for the Republican candidate for governor at the November election, only thirty-

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1 Primary Election Law, Sec. 28 - 29.
2 Files of the secretary of state.
3 Files of county clerk of Weld County.

and failure for a condition the United States military, twenty-five hundred million dollars effective or proportionately in Congress; and one thousand million the old issue attitude.[1] The basis of the primary complaint very with the constitution: in 1906 the total expenditure of airplanes for maintenance whose expenditures of from over forty-five thousand million the resolution for United States military in the one of our nations for fifty-seventeen of a place or the built. The article reported course of the right electing administration efficient was appropriately moral tomorrow and nine-tenths million.[2] The population of the Revolutionary machines for governor was marked with practically or answer where the income that is either but or appropriations; but so the room electing the nine-tenths for machine the Treasurer previous years begin national and fifty dollars.[3] Entering the resolution for very member action for the appropriations of the business and fifty-eight failure back of nearly already, were than the budget was fifty.

In a result of this expenditure of money and effect, been than fifty per cent. of the states expended of the years of the primary election. Of the total number of years we right the Revolutionary and article the question of the Treasure election, one fifty-

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1. Sumner Elections Gen. Pen. 22 - 24.
2. Times of the monetary of state.
3. Times of nearly clerk of this County.

seven per cent. voted at the September primary. Similar experience might be noted in connection with other offices, both state and county.[1]

Thus it appears that the direct primary does not receive adequate attention on the part of the voters, so, in large measure, its significance is lost; while the costs are considerable, amounting practically to the costs of the general election.

The General Election

With the nominations determined by the direct primary or by petition, the campaign for the general election begins. In this party contest no limitation is now placed upon the amount which may be expended. The legal requirement is that a statement of amounts spent and to whom paid shall be filed by each candidate with the proper official within thirty days after the election.[2] The amounts for the 1920 election are, on the average, approximately the same as those given for the primary of the same year.[3]

As a means of avoiding the control of election by wealth, through contributions to campaign funds by either individuals or corporations, a law was enacted in 1909 to restrict the sources and the amounts of campaign funds.[4] According to its provisions, the expenses of conducting campaigns to elect state, district, and county officers were paid only by the state and by the candidates.

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1 Files of secretary of state.
2 Session Laws of 1891, p. 170.
3 Files of the secretary of state.
4 Session Laws of 1909, pp. 303 ff.

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Within ten days after nominations for state officers by the political party, the state treasurer was directed to pay to the state chairman of the party, twenty-five cents for every vote cast at the last preceding election for its candidate for governor. The state treasurer paid the entire amount due each party to its state chairman, who was under bonds to distribute one-half among the county chairmen, according to the party vote in the several counties. The amount which any candidate contributed could not exceed forty per cent. of the salary for the first year, and, in case an officer was entitled to fees, not in excess of twenty-five per cent. of the fees attached to the office during the preceding year. Any person or corporation, other than those mentioned, making contributions, was guilty of a felony; and any party committee chairman receiving such contributions was likewise guilty. This novel plan did not receive general favor, and, in 1910, it was set aside by a new law which forbade contributions to the campaign expenses of any candidate from any source whatever.[1]

For the conduct of the general election, a detailed plan is provided by statute law. At least thirty days previous to any general election, the secretary of state notifies the county clerks of the election, together with the officers to be elected or the measures to be voted on.[2] This information is then given to the

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1 Session (extraordinary) Laws of 1910, pp. 36-37.
2 Election Laws p. 27.

public through a newspaper having general circulation in the county, and by sending a copy of the notice by mail to judges of election in each precinct, to be posted at the place of voting, at least fifteen days before the election.[1]

For the purposes of elections, the county commissioners of the several counties are required to divide them into precincts, and to designate the polling places. The limitation is fixed by law that there be at least one election precinct for every five hundred registered voters. Presiding over each precinct or voting district are three election judges and two clerks, chosen by the judges. The judges are chosen by the county commissioners from party lists submitted for the purpose for the term of one year. In addition to their services as election judges, the three serve as the board of registry to determine the electorate in advance of any election.[2] In cities of from two thousand to five thousand the precincts may be grouped so that from three to twelve shall constitute a registration district; and when the city contains more than five thousand, the county clerk appoints the registration committee for each precinct.[3] In each of the cases mentioned provision is made for the registration of the qualified voters. When the qualified voter is registered, either by the judge of election or by appearing in person, the registration is permanent, unless the voter

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1 Ibid., p. 27.
2 Ibid., pp. 88-9.
3 Election Laws, pp. 48 ff.

fails to vote at any election. The penalty in this case is re-registration in person. The effort to make complete registry lists is continued through subsequent revisions of the first lists, when opportunity is given for personal application of the voter for correction of omissions. When the registration has been completed by any board or committee, the registration books are turned over to the county clerk for safe keeping until copies are needed for the election.

Since the acceptance of the initiated measure of 1912, requiring its use, the "headless" ballot has been used in all state elections.[1] The names of candidates are grouped alphabetically by offices rather than by parties, with the party name following the name of the candidate, the one exception is the party grouping of names of presidential electors. At the end of each list of candidates, space is left for names to be written in at the pleasure of the voter, in order that there may be opportunity for voting as desired. The lists of measures, such as, initiated, referred, or constitutional, are placed after the lists of candidates. To vote for any candidate or any measure, a cross is placed in the marginal square at the left of the name or measure.[2]

On election day, the polls are open from seven in the morning until seven in the evening. The voting process is planned as simply as safety permits. The voter, entering the polling place, announces

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1 Session Laws of 1913, pp. 685-687.
2 Election Laws, p. 96.

his name. If it is found in the registry list he receives one ballot, with the initials of the election judge endorsed on the stub of the ballot. The voter's name is checked off the list with the number of the stub. After the ballot has been marked by the voter, he returns it to the judge who announces the name and the number of the stub, which number must correspond to the number checked against the name on the registry. The stub is removed, the ballot is numbered, the blackened square in the upper left hand corner is turned over the number and pasted down to remain untouched unless the election is contested. The same number is recorded on the poll list with the name of the voter. When all this has been accomplished, the voter receives the ballot back and places it in the ballot box.[1] At the conclusion of the election, before leaving the voting place, the judges and clerks count the ballots and certify to the county clerk the results of the election.[2]

A feature of the elections that should be noted is the provision for absent voters. That a smaller number of qualified electors may be excluded from the privilege of voting, it is permitted the voter to present a certificate of registration at any voting place within the state, and, after identification in person by one or more voters in that precinct and the administration of the oath that the person offering his vote is a qualified voter in the precinct designated by the registration certificate, to cast his

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1 Ibid., pp. 104-5.
2 Ibid., pp. 107-8.

vote. The ballot, together with the affidavit, is sent by the judge to the local county clerk, who, in turn, forwards it to the county clerk of the home county of the voter. The ballot is finally counted and properly recorded by the board of county canvassers.[1]

The final stage in the election process is the canvass of votes. As soon as the returns are received by the county clerk, he takes as assistants two justices of the peace, one of whom, if possible, belongs to a different political party than himself and proceeds to make abstracts of the votes and to deliver certified copies of them to the proper persons. The clerk sends certificates of election to the persons having the highest number of votes for county and precinct offices. If any two or more persons receive the same number of votes, then the clerk and his assistants choose one by lot who is declared elected.[2]

The abstract of votes cast in each county for the offices of the executive department is delivered to the secretary of state, directed to the speaker of the house of representatives, who opens and announces the vote before a joint assembly of the two houses of the legislature, when it organizes. The person having the highest number of votes for any of the offices is elected; otherwise, a choice is made by the two houses acting jointly. The votes for other offices are canvassed by the state board of canvassers, composed of the governor, secretary of state, auditor, treasurer, and

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1 Session Laws of 1915, pp. 221 ff.
2 Election Laws, p. 113.

vote. The ballot, together with the citizenship, is sent by the judge to the local county clerk, who, in turn, forwards it to the county clerk of the home county of the voter. The ballot is finally counted and properly recorded by the board of county canvassers.

The final steps in the election process is the counting of votes. It seems as the returns are received by the county clerk, he takes an envelope for judges of the press, one of each, if possible, returns to a different political party from himself and proceeds to make statements of the votes and to deliver envelopes of them to the proper persons. The clerk sends certificates of claims to the persons having the highest number of votes for county and precinct offices. If any two or more persons receive the same number of votes, then the clerk and the county clerk in his use is decisive.

The election of voters and is most secure for the efficient of the executive department is intrusted to the secretary of state. Directed to the members of the house of representatives, the speaker and whenever the vote values a joint assembly of the two houses of the legislature, when it represents. The joint review the highest number of votes for any of the officers in charge of the election, the choice is made by the two houses acting jointly. The right for other officers are conferred by the state board of canvassers, composed of the governor, secretary of state, auditor, treasurer, and

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1. Dunning Dawn of Rule, p. 222 ff.
2. Electoral Laws, p. 137.

attorney general, or any three of them. For the purpose of this canvass the board meets in the office of the secretary of state on the twenty-fifth day after any election, if the returns are all in; but not later than the last Wednesday of December. In presidential years, the same board meets the last day of November to canvass votes for electors. When the results of an election have been canvassed, returns are certified to the secretary of state. If a tie occurs, a decision is made by the board by lot. Certificates of election are sent to proper persons by the secretary of state, and a certified statement is published in a newspaper located at the seat of government. The list of members elected to each house of the legislature is sent to each house as it assembles; and a list of presidential electors elected at any election is sent to each on or before the first Wednesday in December next after the election.[1]

Regulation of Election Practises

Throughout the consideration of elections and the electorate, the effort to so direct and control them that the conduct of the elections shall be honest and honorable is apparent. On points of procedure careful detail is specifically stated; little is left to the discretion of officials. In the constitution, the general assembly is directed to pass laws to secure the purity of elections and guard against abuses of the elective franchise.[2] In conformity with this clause in the constitution, the courts of the state have

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1 Election Laws, pp. 112-113.
2 Constitution of Colorado, Art. VII, Sec. II.

held the franchise privilege in high regard. When, in 1886, the legislature had under consideration an election measure, inquiry was made of the supreme court, as the law permits, as to the opinion of the court on the pending measure, the following questions were propounded:

1. Is it constitutional to enact a law attempting to regulate the machinery of a political party in making nominations of candidates for public office?

2. Can the law take any cognizance of political parties as such?

3. Can the law interfere in any wise with the modes and methods employed by a political party in the nomination of its candidates for public office?

4. Are the provisions of the bill properly subject matter of legislation?[1]

After due consideration the court found no constitutional objection; and the following year a law was enacted which specifically enumerated eight different classes of fraudulent practise in elections: double voting, folding tickets together, stuffing the ballot box, advising fraud, impersonation of a voter, advising impersonation, bribery or intimidation, and receiving a bribe.[2] In addition to declaring any of these acts misdemeanors and punishable, provision was made that money could not be spent by candidates except for printing or for purposes of holding public meetings.[3]

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1 Merriam, op. cit., pp. 94 ff.
2 Session Laws of 1887, p. 347.
3 Ibid., p. 348.

hold the freedom provided in this figure. Then, in fact, the individuals had other manifestations or electoral measures, having the main of the measure result, or the law passing, is in the typical of the years or the passing measure, the following questions were propounded:

1. Is it constitutional to enact a law requiring an employee of a political party in making nominations of candidates for public office?

2. Can the law take any regulations of political parties in fact?

3. Has the interpreter in my view with the model and initiative subject to a political party in the exercising of the qualifications for public office?

4. Are the provisions of the bill respecting subject matter of initiative?

Can the consideration the court tried to reconsideration of petition; and the following year a law was enacted which specifically conferred only different classes of procedure provided in elections: Public voting, voting under the Australian ballot, statutory direct, improvement of a review, voting concerning, matters of initiative, and matters a whole. In addition to validity are of these acts mandatory and permissible, principle was that many could not be spent in conditions energy for voting in the purchase of having public meetings.

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1 Matters, op. cit., pp. 74 ff.
2 Jensen Lamp of Law, p. 347.
3 Ibid., p. 348.

The attitude of the court was further expressed when it declared that the legislature may enact necessary laws for the purpose of regulating details, but it cannot, under the guise of regulation, substantially impair the constitutional right of any elector to cast his vote.[1]

Again in 1891, the legislature took action to suppress corrupt practise. It was made unlawful to give or receive money or promise employment to influence voting or to discharge or promote employes for that purpose. At the same time individual candidates and chairmen of central committees were required to file statements of election expenditures.[2] This measure, with the one of 1887, introduced many safeguards for elections; but they did not accomplish all the desired results. The intent of the election laws throughout, either in the primary or in the general elections, is to honestly and effectively safeguard the purity of the ballot. Although there has been a notable effort from the beginning of state government, the results have been far from satisfactory, for, in his inaugural address in 1903, the governor states, "under our present law . . . . . there seems to be no limit to false registration and illegal and fraudulent voting; all parties charge others with equal guilt."[3]

In the statutes much detailed consideration is given to the contest of elections.[4] Decisions of the state courts clearly demon-

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1 People ex rel. Eaton v. Dist. Ct. of Arapahoe Co., 18 Colo., 26.
2 Session Laws of 1891, pp. 167 ff.
3 Address of James H. Peabody to 14th General Assembly.
4 Election Laws, pp. 114 - 122.

The attitude of Wm. Monroe was further expressed when it became clear that the legislature may grant necessary leave for the purpose of registration details, but it stated, under the guise of registration, unmistakably insofar the constitutional right of and charter to vote [illegible].[1]

Prior to 1871, the legislature took action to support control measures. It was made unlawful to give or receive money or provide conveyance to influence voting or to discourage or induce employees for that purpose. It was made also individual solicitation and similar of general employees were required to file statements of election expenditures.[2] This measure, with the use of 1871, introduced much motivation for elections; but there did not exemplify all the desired results. The intent of the election laws (Longford, allow for the primary or in the general elections, in a reasonable and effectual manner adequate the purity of the ballot. Although there has been a steady effort from the beginning of state government, the results have been far from satisfactory. For, in the Longford address to 1871, the governor states, "Under our present law . . . . there seems to be no limit to false registration and illegal and fraudulent voters and partisan change others with equal guilt."

In the Harding year, detailed examination is given to the problem of elections. Violations of the state election laws

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1. Speech on wp. Brown v. Hunt, Op. cit Monroe Co., 17 Ind., 70.
2. Election Laws of 1871. op. cit 72.
3. Address of Governor D. Chamberlain to 11th General Assembly.
4. Election Laws. op. cit - 1871.

strate their meaning.[1] The secrecy of the ballot, about which so much has been said and done, is not so important as its purity. So emphatic has been this principle that it has been the subject of several decisions. One of these is suggestive of them, in general:

> When it is clearly established that frauds subversive of the purity of the ballot box and tending to nullify the popular will have been perpetrated by election officers, or others, and the extent of such frauds cannot be disclosed with reasonable certainty, the entire return should be thrown out.[2]

To avoid interminable difficulties, however, the canvassing boards have refused "to go behind the returns or reject votes or inquire into the validity of the election."[3] It has been left to the courts to serve public interest in this manner.

A further means of maintaining elections on a plane of honest procedure is the challenge. There are two forms of this: the challenge of false registration and the challenge of illegal voting on the day of the election. In the first form, a complaint is filed in the county or district court, by any qualified elector, charging illegal registration. This charge must be followed by an investigation by the county or district court to determine whether the name shall be left on the registry list.[4] The second form of the challenge implies that an elector or judge of election exercises the right to question the voter, when it may appear that a ballot is about to be cast illegally. The challenged must then take an

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1 Vigil v. Garcia, 36 Colo., 430; Clanton v. Ryan, 14 Colo.,419.
2 Londoner v. People, 15 Colo., 577.
3 Kindel v. Le Bert, 23 Colo., 385.
4 Election Laws, pp. 74 ff.

oath that he is a qualified elector.[1]

In cities of more than five thousand, as a means of purging the registration lists and securing honest elections, the chairman of each political party may name a watcher or challenger to serve at the registration or voting in any precinct. Each party may have also one or two persons to represent the party during the counting and certifying the returns of either primary or general elections. It is provided that no one who is over a number of employes of any business interest may serve as watcher or challenger.[2]

Thus it appears that numerous precautions against fraudulent practises of any kind are provided by the laws governing elections. Through the inspection of the ballot boxes at the opening of the polls,[3] through careful attention to the security of the ballots before and after the count, and through the employment of election officials in pairs of party representatives,[4] the conduct of the election is jealously guarded.

This interest in the purity of elections is also a present concern of thenpeople. At the last session of the legislature two laws were enacted which penalize officials concerned for violation of the election laws of the state.[5]

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1 Ibid., pp. 108, 103.
2 Election Laws, pp. 86, 108.
3 Ibid., p. 101.
4 Ibid., p. 111.
5 Session Laws of 1921, pp. 290 - 291.

such that he is a qualified elector.[1]

In states of more than five thousand, or a county of twenty-five thousand inhabitants, and requiring annual elections, the members of each political party may name a voter or qualified elector in every ward or precinct to act as a watcher or challenger in every ward in the precinct in which he may reside. Such party may appoint one at ten thousand to accompany the early ballot boxes and challenge the qualifications of voters of either party at general elections. It is important that in one city is kept a number of employees of the Registrar Corporation and more in outside as challenges.

Thus it appears that numerous provisions against fraudulent assessments of any kind are provided by the Land Registration Act. Through the integrity of the Saskatchewan voter is the equality of the polls, further careful attention to the security of the ballots has been the duty the court, but through the employment of statutory obligations to prevent assessmentfraud. The problem of the elections in Saskatchewan.

This interest in the purity of elections is also a primary concern of the people. In the last session of the Saskatchewan Land Registration Act, the Land Registrar was granted certain obligations for validation of the election laws of the province.

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1. Ibid., ss. 107, 108.
2. Saskatchewan Land Registration Act, ss. 84, 124.
3. Ibid., p. 124.
4. Ibid., p. 111.
5. Statutes Canada of 1922, pp. 624 - 627.

Modification of Election Methods

To add to the interest, if not to the success of the electorial system of the state, there has been the elimination of sex as a qualification for the exercise of suffrage. To some students of the subject, the extension of the suffrage to women has meant the addition of an element to the electorate which improves the quality of the election.[1] It is a commendable feature of the experience in equality in suffrage that there never has been on sex lines a division of the electorate on any issue.[2] In the state elective offices, women have been chosen to serve in both houses of the legislature; three have been elected to the upper and six to the lower house. The office of state superintendent of public instruction is filled continuously by women. But in no other elective offices of the state have women served. In offices in the divisions of the state, they have served in various positions; that of county superintendent of schools quite generally.[3]

One feature of the elective system of the state which is open to criticism may be modified as a result of experiments that have been tried within the state in local elections. The state elections are by plurality vote. In principle, election by a majority vote is generally thought desirable. But since there is always the possibility, where there are more than two candidates for an office,

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1 G. Creel, "What Have Women Done With The Vote?", Century Magazine, March, 1914; Sumner, op. cit., p. 92.

2 Congressional Record, 66 Cong. 1 sess., 86.

3 Ibid., pp. 86-7. In the twenty-third session of the general assembly, there were four women in the lower house, but none in the upper. Of the sixty-three county superintendents elected in 1920, fifty-six were women.

Qualification of Electoral Systems

[illegible] to say the contrary, it was at the request of the electoral system of the state, there has been the elimination of sex as a qualification for the exercise of suffrage. In some states of the union, the extension of the suffrage to women has meant the addition of an element to the electorate which improves the quality of the electorate. It is a commonplace opinion of the survivors in society to believe that there never has been an age when a distinguished the electorate on our time. In the years gone by citizen women have been allowed to have a hand because of the logic of; these have allowed to the upper and say in the lower house. The effect of this association of public individuals is called equivalently by women. But is no such qualitative effect of the sexes have been proved. It affects in the direction of the state, these have proved to produce predictions; that of society supposedly authentic qualitatively.

The factors of the electoral system of the state would by case be estimated may be predicted as a result of equivalent that the case factorization the state is least elevated. The state affirms on to qualitative rule. In principle, elected by a majority vote independently through districts. But since there is always the possibility, where there are more than two candidates for an office,

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1. E. Dyer, "Will the Women Have Their Way", Quarterly Journal, Lord, Summer, op. cit., p. 98.
2. E. Dyer, Journal Summer, op. cit., p. 98.
3. Ibid., p. 97. In the twenty-first century of the national [illegible] there were women in the lower house, but women in the senate. In the eighty-three elected representatives elected in 1920, eighty-six were women.

that no one will succeed in securing a majority, there is objection to this method. Under an election by plurality, there may be officials who represent the minority of voters.

In 1909 the majority preferential system was adopted by Grand Junction, Colorado.[1] The ballot provides for voting first choice in the second column, and third choice in the third column. When there are four or more candidates, the ballot allows three chances; when there are only three candidates, first and second choices may be expressed; and when there are two candidates, then only one choice is permitted. In no case may more than one choice be expressed for the same person as a candidate. In determining the election, a simple majority elects. If necessary, the second and third choices may be added to the first choice to secure a majority required to elect. After each count the lowest candidate is eliminated; and when only one remains, an election is declared, even if that one does not have a majority. The plan has met with so much approval in the elections in Grand Junction that it has been adopted as the method of conducting elections in the City and County of Denver.[2] Through this method it becomes possible to ascertain the opinion of the voter with respect to all the candidates and, usually, to secure officers who represent the will of the majority.

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1 Charter of Grand Junction, 1909; C. G. Haines, Principles and Problems of Government (1921), p. 162.

2 Municipal Code of the City and County of Denver, adopted in 1917.

CHAPTER III

POPULAR CONTROL OF STATE GOVERNMENT

In addition to the usual means of exercising popular control over state government, such as the organized party system and the electorate operating through the elections, the electorate controls through the initiative, the referendum, and the recall. These "newer weapons of democracy", as they have been called,[1] were introduced, in Colorado by constitutional amendment: the initiative and referendum, in 1910,[2] and the recall of officers and of judicial decisions, in 1912.[3] According to the provisions of these amendments, the people, acting directly at the polls, decide on proposals for legislation, constitutional amendments, and questions of recall.

The Initiative

The initiative is a form of direct legislation by which a certain per cent. of the legal voters of the state or any subdivision of it prepare a constitutional amendment, state statute, municipal charter, or ordinance, and by petition present it directly to the voters for adoption or rejection. This right to petition and to have the petition acted upon is the essential principle of the initiative. The right to propose laws for the state or amendments to the constitution is the first right reserved by the people in the constitutional amendment. A petition of at least eight per cent. of the

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1 W. B. Munro, The Initiative, Referendum and Recall (1912), p. 2.
2 Constitution of Colorado, Art. V, Sec. 1.
3 Ibid., Art. XXI, Sec. 1 - 4; Art. VI, Sec. 1.

legal voters is required to propose any measure.[1] No specific directions are given as to the method of determining the number of voters, nor is any distribution of the petitioners over the state required. The full text of the petition, which has for its purpose state legislation or amendments to the constitution, must be addressed to and filed with the secretary of state at least four months before the election at which it is to be voted upon.[2]

It is the duty of the secretary of state to examine the petition to determine whether it complies with the legal requirements. The legal petition consists of sheets having the form prescribed by the secretary of state and signed only by qualified electors, whose addresses are given, together with the date of the signing. An affidavit of a qualified elector that the petition contains only the signatures of qualified electors is attached.[3] When the petition is so verified, it is to be regarded as sufficient if it appears to be signed by the requisite number of qualified electors, unless a written protest is filed within fifteen days of the filing of the petition. In case protest is made, a public hearing must be held by the official with whom the petition has been filed, to determine the sufficiency

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1 Ibid., Art. V, Sec. 1ff. Any appointive officer or employee of the state is prohibited from circulating any initiative or referendum petition or to use influence in connection with it. Session Laws of 1913, p. 309.

2 The constitution provides also for preserving to the people of every city, town, or municipality initiative and referendum powers in so far as their local government is concerned. This right is reaffirmed, on the part of the people, when they are given the authority to frame their own charters and to provide for the initiative and referendum. Constitution of Colorado, Art. 20, Sec. 6.

3 Ibid., Art. V, Sec. 1; Session Laws of 1913, p. 310.

[illegible] voters in petition to petition any measure.[1] In specific discussions are given as to the method of determining the number of voters, and the distribution of the petitioners over the state required. The duty lies of the petition, which has the in person state legislature or members in the assemblies, must be authenticated by and filed with the secretary of state as [illegible] days before the election at which it is to be voted upon.

It is the duty of the secretary of state to receive the petition to determine whether it complies with the legal requirements. The legal petition consists of sheets bearing the form prescribed by the secretary of state and signed only by qualified electors, where signatures are given, together with the date of the signing. In affidavit of a qualified elector that the petition contains only the signatures of qualified electors is attached. When the petition is so verified, it is to be counted or sufficient if it appears to be signed by the requisite number of qualified electors. Within a certain period in fixed which differs from of the filing of the petition. In case another is made, a public hearing must be held by the official with whom the petition has been filed, to determine the sufficiency

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1 Cook, op. cit., 127. Any qualified citizen or citizens [illegible] in [illegible] form signature and indicating his intention to authorize [illegible] in the influence in accordance with it. [illegible] p. 89.

2 The secretaries provide also for canvassing in the special [illegible] of every city, town, or municipality [illegible] and determine [illegible] for the [illegible] conducted in [illegible]. This which is [illegible] in the hand of the people, who, [illegible] by the [illegible] to be from their [illegible] and to [illegible] the initiative and referendum. Encyclopedia of Citizenship, op. cit., p. 9.

3 Cook, op. cit., 127. [illegible] p. 88.

of the petition. The findings may be reviewed by any state court of general jurisdiction in the county in which the petition is filed, which decision may in turn be reviewed by the supreme court. That the delay may not be unnecessarily prolonged, the time for a hearing with a decision is limited to sixty days; and the court decisions must be given "forthwith" and "summarily".[1]

When the measure appears on the ballot it is by title only. The original draft of the petition is submitted, before it is signed by the electors, to the secretary of state, who, assisted by the attorney general and the reporter of the supreme court, fixes the title.[2] At the time the secretary of state certifies to the county clerks the names of candidates for office, he also certifies to them the titles of each initiated and referred measure to be voted on at the election. The votes and all measures submitted to the people are counted, canvassed, and returned in accord with the laws governing elections.[3]

Since it is important that the electorate shall be informed on the questions submitted to them, provision is made for the publication by the secretary of state of any measure once, at least thirty days before the election, in two newspapers, of opposite political faith, if possible, in each county in the state. Any person or organization interested in a measure may have argument for or against it printed with the statement of the measure; provided sufficient

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1 Ibid., pp. 311-312.
2 Session Laws of 1919, p. 431.
3 Session Laws of 1913, p. 312-313.

money is deposited with the secretary of state to pay for the extra expense.[1]

The use of the initiative has been very limited. Since its introduction in 1910, only five laws have been approved by the people. Of the six measures proposed in 1920, the one concerning the hours of employment of members of fire departments was successfully referred to the people.[2] The others which have been accepted by the people were concerned with the care of the insane, the investment of state school funds, and prohibition enforcement.[3] On several occassions the initiative has been used also to amend the constitution. These amendments have been concerned with interests of much importance to the people: the first three which provided for the recall of officials and of judicial decisions and the extension of home rule for cities were adopted in 1912;[4] the prohibition of the manufacture and sale of intoxicating liquors, in 1914;[5] the extension of the civil service and the strengthening of the prohibition amendment, in 1918;[6] and the increase of the maximum rate of taxation in the state in the interest of the state educational institutions, in 1920.[7]

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1 Ibid., pp. 313 - 14.

2 Abstract of Votes (1920), table 4.

3 Abstract of Votes (1916), pp. 174-175,180-181; Abstract of Votes (1918), pp. 26-27.

4 Constitution of Colorado, Art. XXI, XI, XX.

5 Ibid., Art. XXII.

6 Abstract of Votes (1918), pp. 26 - 27.

7 Abstract of Votes (1920), table 4. Five amendments, proposed by voting petitioners, are to be placed on the ballot in November, 1922. They include reapportionment of the senatorial and representative districts, a six million dollar state bond issue for highway construction, reorganization of the public utilities commission so as to divest the home rule cities of control over public utilities, and revision of state taxation methods and the passage of an income tax law mandatory upon the legislature.

In the three biennial elections to which reference has been made, the numbers of votes cast on initiated measures have been relatively small. The best showing of interest in the voting was made on a prohibition question when the issue was the determination of the per cent. of alcohol necessary in a beverage to make it intoxicating. Then the vote cast was eighty-three per cent., approximately, of the vote for governor.[1] The least interest in an initiated measure was shown in 1918, when the vote on a civil service measure was fifty-seven per cent. of that for governor.[2] The average vote on initiated measures has not been, in any election, above seventy per cent. of the vote for governor. This showing indicates that the chief argument for direct legislation has its limitations. On the assumption that the way to get voters interested in public measures is to ask their opinion on measures, the principle of the initiative appears to be sound; in practise, however, the conclusion is not satisfactory.[3] With respect to the legislature, the initiative probably has little effect. The early contention of Professor Munro that the initiative tends to shift the responsibility of the legislature to the electorate[4] is discounted by Professor Kimball, who believes that party responsibility is not seriously weakened nor the character of the legislature lowered.[5]

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1 Abstract of Votes, 1916, pp. 172-173.
2 Abstract of Votes, 1918, pp. 26- 27.
3 C. G. and B. M. Haines, Principles and Problems of Government (1921), p. 120.
4 W. B. Munro, Initiative, Referendum, and Recall (1912), pp. 3-4
5 E. Kimball, State and Municipal Government in the United States (1922), p. 224. Members of the senate and house of representatives of the Colorado Legislature confirm Professor Kimball's statement.

Numerous defects in the practise appear. Paid agents circulate the petition to secure signatures; and these frequently, either through carelessness or deliberate intent to defraud, present illegal signatures. With the comparatively small percentage of voters required, and these not widely distributed, the public may be required to express an opinion on a matter of limited interest. A law may be enacted, consequently, by a minority of the voters. The small group may force an unimportant issue to a vote and incur needless expense.[1] As a result of haste and display of passion, laws may be enacted or provisions inserted into the constitution which, on account of their crudity of form or insufficiency, become seriously objectionable. In providing for constitutional amendment and statutory law, the initiative procedure makes no distinction between them. Without any apparent reason for choice of method, nine constitutional amendments and twelve statutes were proposed by petition in 1912. To judge by the number of votes cast no more interest attached to the amendments than the statutes. More dangerous than any of these defects in the procedure, there is employed the erroneous principle that the way to correct an unsatisfactory condition in the legislature is to take away the power of the official rather than to attempt to improve the quality of the public service.

The Referendum

The second power which is reserved to the people, with respect to legislation, is the referendum. The idea of the referendum has been familiar to the people of the state since the adoption of the

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1 In 1920 the cost to the state of the initiated and referred measures was over thirty-five thousand dollars.

Democracy flourishes in the greatest degree. That simple steps such as publicity in budgets expenditure and those financially, either through contributions or indirectly lavish in nature, invent illegal expenditure. With the administrative audit procedure of values political, and thus not strictly distributive, the public may be required to express an opinion on a matter of limited interest. I am only in general, consciously, by a minority of the voters. The small group may thus be unrepresentative thus in a way that their majority opinion. In a public of large but single of people, time may be wasted in providing financial info the committee which, in leaved of that reality of them or investment, become certainly objectionable. In provision for constitutional remedies and statutory law, the criteria providing which as distinctive between them. Without any apparent reason for design of method, also constitutional remedies and valid reality were invented by politics in 1922. The judge by the number of valid law is made formally affected in the remedies than the statutes. Your Commission bias not of time durable in the problems, thus is confirmed the convenience principle that the way is always to constitutionary available in the judgments. Time to take away the power of the virtual money also be enough to lessen the reality of the public review.

The Initiative

The usual power which is reserved to the people, with regard to legislation, is the referendum. The idea of the referendum has been familiar to the people of the state since the adoption of the

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1 In 1903 the work in the state of the initiated and referred measures was most thirty-five thousand dollars.

constitution in 1876; but the introduction of the statutory referendum was accomplished in 1910 by an amendment to the constitution.[1] It may be ordered against any act or any part of an act of the general assembly, either by a petition signed by five per cent. of the legal voters or by the vote of the general assembly.[2] Either method prevents the operation of the law until it haw been approved or rejected by the people in an election. In each case the final action is taken by the people.

When a measure proposed by the general assembly is, in the opinion of that body, uncertain as to its approval by the people, it may be submitted to a vote before it becomes operative. The referendum may be ordered also when the legislature does not wish to assume responsibility for the measure under consideration.

When a measure is referred by petition, the procedure is identical with that in the case of the initiative, with the exception that the number of signers of the petition must be equal to five per cent. of the number of legal voters at the last preceding general election.[3]

Although the measure is provided for in detail in the constitution and a lengthy statute elaborates upon the measure, its operation is practically nullified by the legislature.[4] A clause was inserted in the constitutional amendment, intended to provide for

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1 Art. V, Sec. 1. The referendum power is reserved to the voters of every city and town with respect to all local legislation. The manner of exercising it is left to the local subdivision, with the exception that it is provided that not more than ten per cent. of the legal voters may be required to order the referendum.

2 The referendum provision does not extend to resolutions of the general assembly. Prior v. Noland, 68 Colo., 263.

3 Ibid., Art. V, Sec. 1

4 In 1912 six measures were referred by petition; but in recent elections no measures have been so referred.

[illegible]

[illegible]

[illegible]

emergency and for the necessary appropriations of government. The referendum is made to apply against all laws of the general assembly, "except as to laws necessary for the immediate preservation of the public peace, health or safety, and appropriations for the support and maintenance of the department of state and state institutions."[1] The interpretation placed on this clause by the legislature has been most liberal, as evidenced by the action of the twenty-third general assembly. Of the two hundred sixty-five laws passed, one hundred eighteen included the "safety clutch," which prevents the application of the referendum.

The safety clause operates in connection with the emergency clause. The laws enacted by the legislature and signed by the governor do not ordinarily become effective until ninety days have elapsed. The general assembly, however, by a vote of two-thirds of all the members elected to each house, may declare the law an emergency measure.[2] When this is done, it becomes effective immediately; provided the measure is rendered non-referable by the safety clause. The simple statement that "The General Assembly hereby declares that this Act is necessary for the immediate preservation of the public health and safety," when appended to a bill, removes it from the possibility of being referred. In the absence of the safety clause, every act, though it carries the emergency clause which declares that

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1 Ibid., Art. V, Sec. 1.

2 Ibid., Art. V, Sec. 19. The twenty-third general assembly declared one hundred seventy-seven bills emergency measures.

it "shall take effect and be in force from the date of and after its passage", is subject to reference during a ninety day period. It is only when both clauses are attached that a law goes into effect immediately and is not subject to the referendum.[1]

The referendum as an agency of the people to control the action of the legislature has failed conspicuously. The intent of the measure to provide a popular veto on measures which the legislature enacts has been set aside quite completely. The final legislative authority does not rest with the voters. Instead, the members of the legislature have the opportunity to compel the people, through popular election, to decide upon any issue which they themselves may decide to refer. On measures which the legislators wish to make final decision, they attach both the emergency and safety clauses; and they are removed from the possibility of consideration by the voters. This can be done without even the necessity of a vote in excess of the simple majority.

The Recall of Officers

The third method written into the constitution to provide popular control over state government is the recall. By an initiated measure of 1912, the people voted to include in the constitution this device by which a public officer who is not satisfactory to the people may be removed from office.[2] It applies to every elective public officer of the state; and it may be exercised by the electors of a

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1 In re Interrogatories of the Governor, 66 Colo., 319.
2 Constitution of Colorado, Art. XXI, Sec. 1 - 4.

county, city, or town.[1]

The procedure followed in the recall of a public official begins with the circulation of a petition, which must be signed by electors equal in number to twenty-five per cent. of the entire vote cast at the last preceding election for all candidates for the office under consideration. The petition must contain a general statement, in not more than two hundred words, of the reason for the recall. The voters are given instruction by this statement, and they have the exclusive right to decide as to "the legality, reasonableness and sufficiency of such grounds ..... assigned for the recall."[2] If a written protest is filed in the office of the official with whom the recall petition has been filed, within fifteen days, a hearing must be arranged to give opportunity for sworn testimony to be presented by the protesting party. The decision of the official is subject to review by any state court in the county in which the petition is filed, upon application of the person or a representative of a majority of the signers of the petition. When the petition is sufficient, the governor is required to call an election in from thirty to sixty days from the date of the submission of the petition. If a general election is to occur within ninety days, however, the recall election is held at that time.[3]

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1 Ibid., Art. XXI, Sec. 1, 4; Guyer v. Stutt, 68 Colo., 422. The constitutional definition of elective officer includes every person who has authority to exercise any public function. The authority may be acquired by appointment or designation by law, as well as by election.

2 Ibid., Art. XXI, Sec. 1.

3 Ibid., Art. XXI, Sec. 2.

[illegible] [illegible] [illegible] [

The official whose conduct is the occasion of the recall petition is permitted to resign within five days after the petition is filed; otherwise the recall election takes place. On the official ballot, the reasons for the recall are set forth in not to exceed two hundred words; and the officer's justification of his action is printed in not more than three hundred words. The public official is partially safeguarded against his political opponents by the provision that no recall petition shall be circulated or filed against him until he has actually held his office for at least six months, except in the recall of a member of the general assembly, when the first step may be taken five days after the convening of the general assembly after his election.[1] If a recall election fails to eliminate the officer, any further attempt against him requires a petition signed by twice as many petitioners as in the first trial. In case of the failure to recall an officer in any election held for the purpose, the legislature is authorized to make appropriation to reimburse the official for the actual expenses of the election.[2]

On the same ballot, the names of candidates to succeed the person sought to be recalled are printed. These candidates are nominated by petition, as provided by law for regular nominations for the same office, and the petitions are required to be filed with the proper official not less than fifteen days before the election. The name of the person against whom the petition is filed cannot appear in the list of candidates.

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1 Ibid., Art. XXI, Sec. 3 - 4.
2 Ibid., Art. XXI, Sec. 4.

In determining the results of the election, no vote is counted for any candidate, unless the voter also voted for or against the recall of the person sought to be recalled. If the majority of votes are against the recall, the official continues in office; but if the majority of votes favor the recall then the candidate having the highest number of votes assumes the duties of the office.[1]

Although every type of state official is within the scope of the law, the recall of a state official has not been accomplished in any case. In the instances in which the law has been used, its operation has shown the defects in the principle of the recall of public officials. The law includes the recall of judges, and an attempt to recall a district judge probably has been the most interesting application of the constitutional provision. At the conclusion of a sensational trial, the jury returned a verdict. The attorney for the defendant asked for thirty days in which to file a motion for a new trial, to which the prosecuting attorney made no objection. The judge then announced his conclusions from the evidence, and then asked the district attorney, who was present but had not participated in the trial, for his opinion. He announced that he entirely concurred in all that the judge had said; and he advised, instead of granting a new trial, that the case should be dismissed. He filed in writing his reasons for advising the dismissal of the case, which were principally that the prosecuting witness was a confessed criminal and had made divergent statements with reference to the case. The case was dismissed.[2]

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1 Ibid., Art. XXI, Sec. 3.
2 Colorado Bar Association Report (1915), pp. 59 - 60.

In determining the validity of the statutes, we have to consider the [illegible] by any statutes, unless the voter also voted for or against the [illegible] of the person sought to be recalled. If the majority of votes [illegible] the recall, the official continues in office; but if the majority of votes favor the recall then the candidate receiving the highest number of votes becomes the holder of the office.

Although every type of recall is actually in which the people of the [illegible], the result of a state official has not been encountered in our [illegible]. In the instances in which the recall, the [illegible] has shown the attitude in the principle of the recall of public officials. The law indicates the result of judges, and as already [illegible] a district judge probably has been the most interesting [illegible] of the constitutional provisions. In the consideration of a [illegible] recall, the jury returned a verdict. The attorney for the [illegible] later for which been in which for a new trial, in which the prosecution attorney said in closing. In [illegible] then proceeded his conclusions from the evidence, and then said [illegible] the district attorney, who was present but not participating [illegible] in the trial, for his opinion. The prosecutor, [illegible] in publicly [illegible] in all that the judge had said; but he [illegible], instead of [illegible] a new trial, that the case should be dismissed. In fact in [illegible] his reasons for ordering the dismissal of the case, which was [illegible] that the jury-tampering evidence was a [illegible] and [illegible] that was improper evidence with reference to the case. The case was dismissed.

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[1] Ibid., pp. 140, 141, 142, 3.

[2] Minutes The Committee Report (Ibid), pp. 87 - 93.

Following the trial a recall petition was circulated. The grounds for the recall were stated as follows:

> We are advised and therefore charge that the judge arbitrarily, unjustly, and in an unjudicial spirit set aside, and held for naught the verdict . . . of the jury; that he indulged in unbecoming . . . . criticism of the jury; and that he is disposed . . . . . to arbitrary and oppresive conduct.[1]

Over a period of fifteen weeks, paid agents secured approximately four thousand alleged signatures, with addresses given some outside the judicial district and some outside the state.[2] But before any action was taken by the secretary of state, more than twenty per cent. of the signers of the petition demanded withdrawal of their names, on the ground that "the said petition was signed . . . . . through misinformation and misrepresentation as to the facts upon which it was based."[3]

In the meantime, a protest was filed by the judge with the secretary of state, in accordance with the constitution, within fifteen days after the date of filing the recall petition.[4] The contention was made, among other objections, that the law was invalid, that it did not apply to the district judges, and that the petition was insufficient. The court decision which settled the matter was not concerned with any of these contentions; for mandamus proceeding in the district court sought to compel the secretary of state to proceed with plans for an election. The court took action on the sole ques-

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1 Petition for the recall from office of H. P. Burke, Judge of the District Court in and for the Thirteenth Judicial District of the State of Colorado.
2 Files of official material, office of Judge Burke.
3 Copy of official papers, office of Judge Burke.
4 Art. XXI, Sec. 1

tion: Were the protests filed in time? The decision against the recall petitioners by the district court was upheld by the state supreme court.[1] Thus, unfortunately, the court decisions did not deal with the principles of the recall nor was any interpretation placed upon the law.

The chief interest which is attached to the incident is in the operation of the law and the possibilities connected with its use. In this case, obviously, as an agent of popular control over men in office, the recall was a failure. The district judge sought to be recalled was elected to the state supreme bench three years later; and the favorable vote in the counties of his district was greater than in any other county of the district.[2] Members of opposing political parties, as well as members of the judge's own party, condemned the attempt to recall the district judge as a miserable failure and utterly without reason to support it. The citizens heard of the recall without learning the baselessness of the action.[3] A committee selected by the state bar association to investigate the conduct of the judge and district attorney in the case of People v. Sasse, reported as follows:

> We find nothing in the evidence of the case which causes us to doubt the honesty and sincerity of their action or which impeaches the possible correctness of their judgment.
>
> We regard the use of the recall as proposed by those who differ from them as unwise, and tending to obstruct the due administration of justice rather than to aid it, and tending to bring the recall itself into disrepute.[4]

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1 Legal transcripts, office of Judge Burke; Landrum v. Ramer, 64 Colo., 82.

2 Abstract of Votes (1918), table opposite p. 6.

3 Statement of chairmen of democratic and republican central committees of Logan County, reported in transcripts of official material in Judge Burke's office.

4 Colorado Bar Association Report, 1915, pp. 188 - 189.

that: "Now the problem still is time." The Justices require the most painstaking by the district courts and should be the state supreme courts. Then, conversely, the court mentioned did not feel that the judgment of the trial court was one of interpretation given the law.

The other interest which is attached to the decision is in the question of the law and the jurisdiction connected with the case. Obviously, in the event of popular control over the judiciary, the results are a failure. The district judge stands in the position was elected to the state supreme court three years later; and the district was in the minority of all districts was greater than any other county of the district. Because of opposite political parties, he will be member of the judge's own party, endeavored the attempt to recall the district judge on a misleading ballot and citizen-petitioners failed to support it. The criticism began at the recent national Institute the Commissioner of the action. A committee appointed by the state bar association to investigate the conduct of the judge had directed attorney in the case of Doyle v. Smith, involved as follows:

The first problem in the criticism of the case which should be made by the general and courtesy of their action or with impunity the sensitive experiences of their judgment.

In regard the use of the recall as received in Ohio the little time has at hand, and further consideration the due administration of justice rather than to aid it, and failing to bring the recall to their claimants.[1]

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1. Legal Commentary, editor of Ohio Courts: Lawrence T. Sheets, Ed. Chief., Ed.

2. Chairman of Ohio Civil, Julia Rogers to R.

3. Statements of Members of Democratic and Republican Senatorial Committees of Ohio Senate, reported in interviews of officials mentioned in Ohio State's action.

4. Interview the Association Report, 1935, pp. 180 - 190.

Thus the proposed recall was condemned by a considerable number of those who signed the petition and later withdrew their names, by official representatives of the two main political parties, by the legal fraternity of the state through its association, and by the people of the judicial district who elected the official sought to be recalled to the higher judicial office, to membership in the supreme court of the state.

Recall of Judicial Decisions

The general trend toward popular control of government which has been marked by the initiative, referendum, and recall has found expression also in the recall of judicial decisions. The courts have not been performing their functions with such a high degree of efficiency that the people have been entirely satisfied with their work. This is especially true with respect to social and industrial questions. The dissatisfaction of the people of Colorado with the action of the state supreme court was expressed in relation to the decision which declared unconstitutional the law providing an eight-hour day for persons in certain occupations.[1] The same law was proposed as a constitutional amendment in 1901 and was made a part of the constitution by its adoption at the following election.[2] The law which was declared repugnant to the constitution and which was later made a part of it provided "for a period of employment not to

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1 In re Morgan, 26 Colo.,45 .

2 Constitution of Colorado, Art. V, Sec. 25 a; W. F. Dodd, "Social Legislation and the Courts", Political Science Quarterly, Vol. 28, pp. 1 - 17.

exceed eight hours within any twenty-four hours (except in cases of emergency where life or property is in imminent danger) for persons employed in underground mines or other underground workings, blast furnaces, smelters; and any ore reduction works or other branch of industry or labor . . . . . injurious or dangerous to health, life, or limb."[1]

The law had been passed by the legislature, the attorney general contended, as a health regulation which was within the range of the police powers of the state. The court held that the act was unconstitutional and void because it was an unwarrantable interference with the rights of both employer and employee in making contracts relating to private business, and that it was contrary to the bill of rights, which guarantees to all persons their rights of personal liberty and of acquiring property. And further, it was declared that the act was unconstitutional because it arbitrarily singled out a class of persons and imposed upon them restrictions in contravention of that provision of the constitution prohibiting class legislation.[2]

The action of the court in relation to the law illustrates the issue involved in the judicial referendum. The court interpreted the constitution in a different manner than the legislature. The solution of the difficulty was reached by an amendment to the constitution. Thus the action of the legislature was sustained by the

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1 Session Laws of 1899, p. 232; Constitution of Colorado, Art. V, Sec. 25 a.

2 In re Morgan, 26 Colo., 415.

guaranteed rights vested within any twenty-four hours (except in cases of emergency where life or property is in immediate danger) for persons employed in industrial plant or other manufacturing establishments, which business, machinery and any are subject to other hours of labor or labor . . . . . Exception or Exemption in health, life, or limb."[5]

The law was passed by the legislature, the attorney general contended, as a health precaution which was within the scope of the police power of the state. The court held that the law was constitutional and that because it was an unreasonable interference with the rights of both employer and employee to enter contracts relating to private business, and that it was unknown in the light of reason, which presumes to will against their rights of personal liberty and of acquiring property. Had further, it was declared that the act was unconstitutional because it indiscriminately singled out a class of persons and imposed upon them restrictions to protection of that protection of the constitution, prohibiting class legislation.[6]

The action of the court in relation to the law illustrates the issues involved in the judicial outcomes. The court interpreted the constitution in a different manner than the legislature. The application of the principle was changed by an amendment to the constitution. Thus the action of the legislature was modified by the

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5. Ewing Law of 1907. p. 270: Constitution of Colorado. p. 7, Sec. 26 a.
6. Op. cit., Ewing, op. cit., 270.

people; and the position of the court was disapproved.

Whenever a law, enacted by the legislature, is declared unconstitutional, the interpretation of the constitution by the two bodies differs. It remains for the people to declare which interpretation of the constitution it is desired shall be observed, if any further action is to follow. The proponents of the judicial referendum contend that the legislature and the supreme court are each agents of the people and when they disagree over an interpretation of the constitution, the people shall decide the controversy.[1] On the other hand, it is regarded as dangerous to the security of life and property to give to the people the direct power to decide a constitutional question. The estimate of Elihu Root of the judicial recall system well states the position of the conservative:

> We must choose between having prescribed rules of right conduct, binding in every case so long as they exist, even though there may be occasional inconvenience through their restraint upon our freedom of action, and having no rules at all to prevent us from doing in every case whatever we wish to do at the time. A sovereign people which declares that all men have certain inalienable rights, and imposes upon itself the great impersonal rules of conduct deemed necessary for the preservation of those rights, and at the same time declares that it will disregard those rules whenever, in any particular case, it is the wish of the voters to do so, establishes as complete a contradiction to the fundamental principles of our government as it is possible to conceive.[2]

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1 D. R. Richbery, "Constitutional Growth Through Recall of Decisions", The Annals of American Academy of Political and Social Science, Vol. 52, pp. 25 - 36.

2 Quoted by R. G. Brown, "The Judicial Recall - A Fallacy Repugnant to Constitutional Government," The Annals of American Academy of Political and Social Science, Vol. 52, p. 271.

The people of the state met the issue by adopting an initiated amendment to the constitution. The provision of the constitution known as the recall of judicial decisions became effective in 1913. The term used is a misnomer, for it is not the intent of the measure to make possible a reversal of court procedure in general. The real and only purpose is to refer to the people for a decision when the action of the legislature is held to be contrary to the principles of the constitution of the state or the Constitution of the United States.[1] Since the only court which has this jurisdiction is the state supreme court, the recall provisions apply only to the decisions of this court.[2]

By the amendment the conditions regarding the action of the court are made such that the recall may operate. Before the decision of the court which declares any law of the state to be in violation of constitutional principles becomes effective, certain limitations are imposed: the decision must be filed in the office of the clerk of the supreme court within ten days after it is made; it does not become binding until sixty days after such filing; and during the sixty-day period, a referendum petition, signed by not less than five per cent. of the qualified electors and filed with the secretary of state, may request that the law be submitted to the people for adoption or rejection at an election to be held in compliance with the

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1 Session Laws of 1913, p. 678. The same law applies with force to a city charter or an amendment to it adopted by the people.
2 Ibid., p. 678.

The people of this state and the union by adopting an initiated amendment to the constitution. The provisions of the constitution known as the recall of judicial decisions became effective in 1911. The term recall is a misnomer, for it is not the judge of the tribunal who should be recalled at every provocation by somebody. The real fact only requires in an effort to the people for a decision when the action of the legislature or that is be contrary to the principles of the constitution of the state or the function of the United States. Since the only place which has this jurisdiction is the whole supreme court, the recall provisions apply only to the decisions of this court.

By the amendment the conditions regarding the action of the court are such that the recall not operate. Before the determination of the court which declares any law of the state to be violation of constitutional principles between citizens, certain limitations are imposed: the decision must be filed in the office of the clerk of the supreme court within ten days after it is entry; at least ten twenty thousand voters may sign petitions, signed by not less than five-fifths of the qualified electors and filed with the secretary of state, not recall that the law be submitted to the people for adoption or rejection at an election to be held in compliance with the

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1 Douglas Case of 1911, p. 472. The same law applies with force to a city charter or an amendment to it adopted by the people.
2 Ibid., p. 472.

law. If a majority of the votes cast approve the law, it becomes effective at once, notwithstanding the decision of the court.[1]

In the experience of the people of Colorado, the system has not been highly regarded. No successful use of it has been made; and the supreme court has declared that its decisions are not subject to review, suspension, or reversal.[2]

If this recent decision of the court is regarded as final, there still remains to the people a check upon the action of the court by means of the power of constitutional amendment. Although this is generally regarded as a slow, cumbersome process, in Colorado, by the use of the initiative, it can be accomplished in a comparatively short period.[3] The opportunity to use this substitute for the recall of judicial decisions may account for the failure of the people to be concerned about the new measure, which provides for the recall of a single decision and makes no provision for the establishment of a general rule.

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1 Ibid., pp. 678 - 679.
2 People v. Western Union Telegraph Co. et al., 198 Pacific 146.
3 See page 62.

CHAPTER IV

THE STATE LEGISLATURE

Apportionment of Members

In establishing the legislative power of the state, the constitution provides for a general assembly, which consists of a senate and a house of representatives, the members of which are elected by the people.[1] The membership of each house is apportioned according to the census enumeration of the inhabitants. The first session of the general assembly which meets after the census has been taken by the state or by the United States is required to reapportion for senators and representatives, "on the basis of such enumeration according to ratios to be fixed by law."[2]

The original provision for the general assembly required that the senate should consist of twenty-six members and the house of representatives, of forty-nine members, until 1890. After this date the number could be increased, keeping the proportionate number in each house; provided that the total membership of the general assembly should never exceed one hundred.[3] The general assembly, consequently, has increased the number of senators to thirty-five and the number of representatives to sixty-five.[4] In making provision for the election of the members of the senate, the state has been divided into twenty-seven senatorial districts, each of which includes from one to five counties. All districts have one senator each, except the first district which

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1 Art. V, Sec. 1.
2 Constitution of Colorado Art. V, Sec. 45.
3 Ibid., Art. V, Sec. 46.
4 Session Laws of 1891, pp. 22 - 24.

[illegible]

[illegible]

[illegible]

In establishing the legislative power of the state, the constitution provides for a general assembly, which consists of a senate and a house of representatives. The members of both are elected by the people.[1] The membership of each house is apportioned according to the present census of the inhabitants. The first session of the general assembly which meets after the census has been taken is required by the federal Supreme Court to reapportion for members and representatives. For the term of such reapportionment legislation is valid for the first by law.[2]

The original provision for the general assembly requires that the house should consist of twenty-six members and the house of representatives, of forty-four members, every year. Since this time the number might be increased, keeping the proportionate number of each. Every legislature has the right exclusively of the general assembly should judge assist the members. The general assembly, exclusively, has increased its number of members to thirty-six and the number of representatives to sixty-four. In making provision for the election of the members of the senate, the state has been divided into twenty-seven senatorial districts, each of which includes three and is to elect senators. All districts have one senator each, except the first district which

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1 Art. V, Sec. 1.
2 Constitution of Illinois Art. V, Sec. 6a.
3 Ibid., Art. V, Sec. 6a.
4 Brandon Laws of 1921, pp. 22 - 24.

is Denver County, with seven senators, and the second and third districts, with two each.[1] In like manner, the state is divided into forty-four districts for the election of members of the house of representatives, each of which includes from one to three counties. The number of representatives from each district varies from one to twelve.[2] The basis of the apportionment is, for the senate, one senator for the first 10,000 inhabitants in the district and one additional for each 20,000 or fraction over 15,000, in excess of the 10,000; for the house of representatives, one representative for the first 2,000 inhabitants in the district and one additional for each 15,000 or fraction over 12,000, in excess of the 2,000.[3]

The limitation is placed on the legislature, in making the division of the state into districts, that the counties composing a district shall be contiguous and as compact as possible, and that no county shall be divided in the districting.[4] By this constitutional provision the effort was made to preclude the possibility of that arrangement of the electoral districts, called gerrymander, which enables the majority party of the legislature to carry the greatest possible number of votes.

The discrimination against the cities in the apportionment of members of the legislature, which is a common condition in the United States,[5] is apparent in Colorado. The City and County of Denver has

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1 Session Laws of 1917, pp. 42 - 45.
2 Session Laws of 1913, p. 522.
3 Mills Annotated Statutes, Sec. 160. One district (Denver County) has twelve representatives; one district, four; one district, three; five districts, two each; and thirty-six, one each.
4 Constitution of Colorado, Art. V, Sec. 47.
5 A. N. Holcombe, State Government in United States (1916), pp. 246 - 7.

in Dorsey County, with seven members, and the second and third districts, with two each.[2] In this manner, the state is divided into forty-four districts for the election of members of the house of representatives, each of which contains from one to three counties. The number of representatives from each district varies from one to six members.[3] The basis of the apportionment is, for the county, one member for the first 12,000 inhabitants in the district and one additional for each 12,000 or fraction over 12,000. In excess of the 12,000, the house of representatives, one representative for the first 2,500 inhabitants in the district and one additional for each 12,000 or fraction over 12,000, in excess of the 2,500.

The industry is based on the legislature, in making the district of the state into districts, that the counties constituting a district should be contiguous and as compact as possible, and that no county shall be divided in the districting.[4] By this constitutional provision the author was able to preserve the peculiarity of some counties of the existing districts, which enables the majority party of the legislature to retain the previous possible leaders of votes.

The disproportionate control the minority in the apportionment of the legislature, which is a recent condition in the United States,[5] is apparent in Illinois. The city and County of Denver has

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2 Revised Code of 1917, pp. 47 - 49.
3 Revised Code of 1917, p. 800.
4 Utile Constitut Illinois, Sec. 1880. One district [Denver County] may contain several counties; one district, three; two districts [Dorsey County] five counties, two each and thirty-nine, one each.
5 Constitution of Illinois, Art. V, Sec. 27.
6 Jerome C. Malcolm, Single Representation in United States (1912), pp. 11 - 17.

a representation of seven members in the senate and twelve in the house of representatives, or nineteen per cent. of the total membership. The population of the district is twenty-seven per cent. of the total for the state. Stated in other terms, the district representative in the senate represents 39,695 inhabitants; and, in the house of representatives, 21,374 inhabitants. In the same general assembly, a representative from San Juan County represents 1,700 inhabitants.[1] The discrimination is further apparent in the comparison of property values and taxation, for Denver County has twenty-three and five-tenths per cent. of the taxable property of the state and pays this per cent. of the state taxes.[2]

The general assembly has not been concerned, to any great degree, in recognizing the constitutional requirement relative to the taking of a census of the state in order to have, when using the federal census, a basis for reapportionment of members every five years. In 1891, in accord with the provision that the number might be increased to one hundred, a new apportionment was made; in 1909, the next move was made; and again in 1913 a re-districting of the state was made for purposes of representation in the senate and house of representatives.[3] Aside from the modification introduced into the representation in the senate in 1917,[4] the matter has received attention only three times in three decades. The obvious expectation of rapid change in the population of the state

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1 Municipal Facts, Vol. IV, p. 8.
2 Ibid., p. 8.
3 Session Laws of 1891, p. 22; Session Laws of 1909, p. 474; Session Laws of 1913, p. 522.
4 Session Laws of 1917, p. 424.

which led the makers of the constitution to provide for frequent re-apportionment has not been realized. On the other hand, the re-apportionment does not appear to have been made with the special advantage of the party in power at the time as the first concern. When the last apportionment of the state was made, in 1913, for membership in the house of representatives, the democratic party was in control.[1] The subsequent elections have showed varying results: Three times partisan control has changed. The following results were obtained in the election of 1916:[2]

	Votes Cast	Per Cent. of Votes Cast	Number of Representatives	Per Cent. of total Representatives
Democrats	151,962	40.2	38	58.4
Republicans	117,723	31.3	27	41.5
Socialists	12,495	3.3	0	0
Liberals	3,025	0.8	0	0
Others	8			

In 1920 the following results are noted:[3]

	Votes Cast	Per Cent. of Votes Cast	Number of Representatives	Per Cent. of total Representatives
Republicans	174,488	59.5	58	97.4
Democrats[4]	118,440	40.4	7	2.5
Others	2			

1 Stone, W. F, History of Colorado (1918), Vol. I, p. 446.
2 Abstract of Votes, 1916.
3 Abstract of Votes, 1920
4 The Democratic party was divided so that the socialists and others were joined with a faction of the party. Two candidates were named on the ballot.

In each election the party polling the largest vote for governor also had the majority of the representatives in the lower house of the legislature. In each election the majority of members was a greater proportion than the party vote for governor would indicate. Though many explanations for these discrepancies may be offered, it is sufficient for the purposes of this discussion to note that the majorities in the house of representatives have corresponded to the party majorities generally. Similar conditions have prevailed with respect to the senate also. The state laws which require that representatives be elected by districts composed of contiguous and compact territory and sending representatives on a pro rata population basis have been affective in establishing, in a fair degree, party strength in the state.

Organization of the Legislature

The men who are chosen to express the will of the people in the general assembly are elected for terms determined by the constitution: the senators for four years and the representatives for two years.[1] The qualifications for both representatives and senators require the age of twenty-five years, citizenship in the United States, and residence within the district in which they are chosen for at least twelve months next preceding the election.[2] In addition to this, no member of the general assembly may hold any other civil office under the state or any office under the United States.[3] For their services the senators and representa-

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1 Constitution of Colorado, Art. V, Sec. 3.
2 Ibid., Art. V, Sec. 8.
3 Ibid., Art. V, Sec. 4.

tives are each paid one thousand dollars for each biennial period, together with all actual and necessary traveling expenses.[1] The appropriation for this part of the cost of the legislative department for the biennium 1921-1922 was one hundred forty-five thousand dollars. There was added to this for clerk hire, printing and incidentals over fifty thousand dollars.[2] The financial welfare of the people is safeguarded by the general provision of the constitution that members of the general assembly may not receive other compensation, that no general assembly may fix its own compensation, and that no member of either house may, during the term for which he is elected, receive any increase of salary or mileage, under any law passed during the term.[3]

Although the first meeting of the session of the general assembly is on the first Wednesday of January following the election, the term of members commences on the first Wednesday of December preceding the meeting.[4] At twelve o'clock on the day set by law for the opening of the session, the members of each house assemble to elect by ballot a committee on credentials to consider and to report on the credentials of those claiming election.[5] The certificates of election have previously been filed with the clerk of each house by the secretary of state.[6] Each group proceeds to organize: the senate chooses a speaker pro tempore; the house of representatives, a speaker; and each house, such other officers as it may deem necessary.[7] In passing on the credentials

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1 Ibid., Art. V, Sec. 6.
2 Session Laws of 1921, pp. 72, 73, 91.
3 Constitution of Colorado, Art. V, Sec. 6, 9.
4 Ibid., Art. V, Sec. 7; Mills Annotated Statutes, Sec. 3310.
5 Ibid., Sec. 3312-3313.
6 See above, p. 49.
7 Constitution of Colorado, Art. V, Sec. 10; Mills Annotated Statutes, Sec. 3313.

of members, each house is judge of the election returns and the qualifications of its own members.[1] The practice of selecting a committee on credentials to pass on the validity of the certification of members has led to frequent delay in perfecting the permanent organization through party manipulation.[2]

In the plan of organization of the general assembly, the senate is presided over by the lieutenant governor,[3] whose position as presiding officer is taken by a president pro tempore, in case the former is unable to serve.[4] The president of the senate does not have a vote except in cas of a tie; but as a presiding officer he has influence. The power of recognition carries with it the possibility of influencing the conduct of business, although the rules of the senate provide that preference shall be given a senator who has not spoken on the subject, when the presiding officer is designating from two or more the one who may have the right to address the senate.[5] The assignment of bills to committee after their first reading gives to the presiding officer in the senate a certain direction and control over legislation, especially since the committees to which they are assigned may be appointed by him, when the bills do not properly go to any of the standing committees.[6]

The standing committees of the senate, of which there are twenty-nine, are selected by resolution of the senate at the beginning

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1 Ibid., Sec. 3313; Senate Rules, 1919, pp. 50 - 51.
2 W. H. Dodds, Procedure in State Legislation (1918), p. 20.
3 Constitution of Colorado, Art. IV, Sec. 14.
4 Ibid., Art. V, Sec. 10.
5 Senate Rules, 1919, p. 21.
6 Ibid., p. 41

of each regular session of the general assembly. They do not have the power to suppress measures, for the committees are required "to report upon all matters referred to them without unnecessary delay," and in case of adverse report they are required to state explicitly their reasons for such action. In fact, the bill, after its first reading, is referred to the appropriate standing committee "for the single purpose of considering whether or not the bill shall be printed." If the bill is not reported to the senate within three days, any senator may, by giving at least one day's notice, call for the report. Unless the committee is excused by the senate such report must be made within three days after the notice.[1]

Many provisions are made to prevent delay in legislative procedure. An effective measure to prevent " filibustering" or undue interference with legislative action is the cloture rule for the senate. Debate may be closed at any time not less than one hour from the adoption of a motion to that effect, and, by a majority vote of all the members, an hour may be fixed for a vote upon the pending measure.[2] To secure the majority necessary to do business in either house a smaller number may adjourn from day to day and compel the attendance of absent members, and no senator may absent himself without leave, except temporarily.[3] No senator may speak more than twice on the same day upon the same question, nor for more

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1 Ibid., p. 42.
2 Ibid., p. 20.
3 Constitution of Colorado, Art. V, Sec. 11; Senate Rules, 1919, p. 28.

than two hours on the same question, without leave of the senate. At no time, without consent, may a senator interrupt the business, except it be to raise a question of order.[1] When a vote is taken, every senator present must vote, unless the senate excuses him. A motion to reconsider may come only from a member voting on the prevailing side, and it must then be decided by a majority vote without debate.[2] As a further precaution against delay in the business, provision is made for the "call of the senate." Any five senators may make the demand at any time when a vote is not being taken. The absent members, for whose absence no sufficient excuse is made, are sent for and taken into custody by the sergeant-at-arms, and brought before the senate. Unless the majority of those present vote to excuse them, they are reprimanded by the president for neglect of duty and fined.[3] In case of disagreement between the two houses which tends to interrupt the proceedings, a regulation provides that the senate may recede or ask for a conference.[4] At no time may either house adjourn for more than three days, nor to any other place without the consent of the other.[5]

The conditions pertaining to the house of representatives are similar in many ways to those with respect to the senate. In the more numerous branch of the legislature, the selection of the presiding officer is an interest of grave importance, since he has

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1 Senate Rules, pp. 29 - 30.
2 Ibid., pp. 31 - 32.
3 Ibid., pp. 34 - 35.
4 Ibid., p. 34.
5 Constitution of Colorado, Art. V, Sec. 15.

extensive powers and great influence. The speaker, in fact, occupies much the same position that the speaker of the federal chamber did previous to 1911. The speaker is elected primarily to preserve order and to insure the proper conduct of business, in accord with the rules of the house.[1] This is a difficult task and involves the decision of points of order. Since any member may appeal from the ruling of the chair, the authority of the speaker is curtailed.[2] In practice, however, this right may mean little, for a member of the minority is really appealing to the majority and, consequently, may expect little support against the speaker who represents the majority. On the other hand, a member of the majority will not stand in the way of his faction by opposing its leader.

In the house of representatives no one may address that body unless recognized by the presiding officer.[3] This gives the speaker authority to name the member who is entitled to the floor, within certain limitations, and to control the procedure for political purposes. The limitation on this authority of the speaker is partially fixed by the order of business being established by rules of the house.[4] Then, too, six committees have the privilege of reporting at any time.[5]

A still greater prerogative of the speaker is the appointment of all committees, whether standing, joint, or special.[6] This power,

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1 House Rules, p. 34.
2 Ibid., p. 18.
3 Ibid., pp. 25, 27.
4 Ibid., pp. 33 - 34.
5 Ibid., p. 49 - 50.
6 House Rules, p. 18. The House Journal (1919) mentions fifteen conference committees and seven special committees.

minority opinion and spoil testimony. The problem, in fact, resembles that the same problem that the Senator of the Federal elections committee in 1973. The problem is clearly probably in language only and in lower the proper evident of testimony, to insure only the rules of the house. This is a difficult task and involves the question of points of order. Since any member may request that the minutes of the chair, the authority of the reviewer is material. In practice, however, this might may even limit, for a member of the minority is really appealing to the majority and, accordingly, may direct little support against the chairman the majority. In the other hand, a member of the majority will not appeal to the chair against the rulings by questions the majority.

In the image of presumptuous or one may observe that motion recognized by the presiding officer. This gives the opportunity to some the member who is appealing to the chair, to certain limitations, and to extend the opportunity for initiate discussion. The distribution of this authority of the chairman is necessarily issued by the order of business being considered by which of the house. Thus, the committee have the authority of reviewing of any time.

A still greater prerogative of the speaker is his right to decide all questions, whether practical, point, or special. This power

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1. Hinds Digest, p. 72.
2. Cole, pp. 32 - 34.
3. Hinds, pp. 31.
4. Cole, pp. 37 - 40.
5. Hinds, pp. 32, 33.
6. Hinds, p. 67 - 69.
7. Hinds, p. 10. The House Journal (1971) contains numerous examples of such special rulings.

together with his membership on the committee on rules,[1] gives great influence to the speaker in determining the character of the legislation of the house. By a judicious distribution of the members, he secures the co-operation of his friends on the important committees; and, by the discreet distribution of bills among committees, he is able to decide the fate of measures.[2] Through this appointive system the speaker has it in his power also to make or mar the legislative record of a member. Membership on the committee on appropriations and expenditures, or the judiciary committee, for example, carries prestige and affords opportunity for attracting public attention. In contrast membership on the committee on printing or the committee on federal relations would gain little publicity or favor with the constituency.[3]

This source of authority and strength of the speaker is limited quite effectually by conditions which must necessarily be met. The presiding officer gains his position through the support of the group which must be recognized in making committee appointments. Important places must be available for recognized party leaders. Should the party be pledged to any particular policy, this must be given attention in selecting committees which may be required to deal with it.

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1 Ibid., p. 19. In a recent special session, the rules committee demanded modification of a bill before it would give it a place on the calendar. "I am confident", the speaker is reported to have said for publication, "the rules committee in the house will not permit the bill to go on the calendar unless changes are made to insure these conditions." Rocky Mountain News, April 22, 1922.

2 C. A. Beard, American Government and Politics (1910), p. 533.

3 No bills were referred to the last mentioned committees.

In a similar manner, the varied sectional interests of the state may require recognition. It is obvious that such committees, for example, as agriculture and irrigation and mines and mining need sectional consideration in the selection of membership. Long terms of service demand promotion and chairmanships. But, quite as compelling as any of these claims for recognition, there is the constant need to consider ability in arranging the membership of committees.

The number of committees in the house, thirty-nine, is greater by ten than the number in the senate.[1] The membership of the house committees varies from five to thirteen in number.[2] This gives a total of 369 committee positions, so that each member may be, on an average, on between five and six committees. The actual placement on the committees ranged, in 1921, between four and seven. When a

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1 The Senate rules (1919) provide for the following committees: agriculture and irrigation, banking, City and County of Denver, constitutional amendments, corporations, county affairs, education and educational amendments, enrollment, finance, fish and forestry and game, horticulture, insurance, judiciary, labor, medical affairs, military affairs, mines and mining, printing, privileges and elections, railroads, reapportionment, revision and engrossment, rules, state affairs and public lands, state institutions and public buildings, stock, supplies and expenditures, temperance, and industrial relations.

The House rules (1921) provide for the following additional committees: appropriations and expenditures, criminal jurisdiction, federal relations, fees and salaries, house expenses, mercantile and manufacturing interests, penitentitary, roads and bridges, state canals and reservoirs, and towns and cities.

2 The following standing committees have thirteen members: corporations, railroad, agriculture and irrigation, mines and mining, state institutions, and appropriations and expenditures. The following have eleven members: judiciary, Denver City affairs, and criminal jurisprudence. The following have five members: rules, revision and engrossment, and enrollment. All the other committees have nine members each.

member served as chairman he was placed on six committees usually; in one instance, on four; and, in ten instances, on five. No committee was chairmanned by a democrat, although the seven democratic members were assigned placed on important committees.[1] It is apparent, however, that it is not the number of positions held that carries prestige for the representatives but the character of the committees on which they serve. Although the number of bills referred may not be an accurate index of the importance of the committee, it still indicates their relative prominence. The committee which deals with financial measures ought to be placed first in the list.[2] This committee received ninety-three bills, referred by the speaker. The largest number of bills, 273, was referred to the judiciary committee. These constituted twenty-four and eight-tenths per cent. of the entire number introduced in both houses. The only other one of the committees which approached these two in the number of referred bills was the committee on agriculture and irrigation, which received thirty-nine bills. Ten of the committees did not receive bills, and two received only one each.[3] Some committees have been important in earlier times but have fallen into disuse on account of changing conditions. The committee on Denver City affairs should naturally rank high among the committees, but, due to the home rule plan of govern-

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1 Index of Senate and House Bills, Twenty-third General Assembly, pp. 200 - 207.

2 Beard, op. cit., p. 534.

3 Index of Senate and House Bills, pp. 200 - 204.

ment, the influence of the City of Denver in the legislature has declined since local autonomy became effective.[1] Many committees have lost their functions through the creation of special boards and commissions which have taken over the work.

The effectiveness of the legislative committee system in the lower house is greatly increased by the regulation requiring that all committees, except the printing committee, "shall report upon all matters referred to here within four days, unless otherwise ordered."[2] Before any bill is brought up for the third reading, it must be examined by the committee on revision and engrossment to correct inaccuracies, repetitions, and inconsistencies.[3] Thus the traditional delay and the killing of bills in committee are prohibited; and the unfortunate inaccuracies and inconsistencies in legislation are decreased.

The co-operative relations between the two houses are furthered through the committee system. Besides providing for the transmission of bills, resolutions, and all papers bearing upon them, the joint rules of the two houses provide for a conference by committee in any case of difference on any subject of legislation. The joint commitee of the two houses, and all committees of conference are composed of two senators and three members of the assembly, unless otherwise specially ordered by concurrent resolution. The report of the joint committee must be read in each house before a vote is taken on the

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1 C. L. King, History of the Government of Denver (1911), pp. 225 ff.

2 House Rules, p. 46; Dodds, op. cit., p. 52.

3 Ibid., p. 79; House Rules, pp. 46 - 7.

ment, the inhabitants of the City of Denver in the Territories has demanded also local judicary before effective. They wanted here land civil rights without the exercise of special boards and commissions which have taken over the work.

The administration of the legislative committee system in the Denver Area is usually improved by the legislature providing that all committees report the pending committee. "Until minority rights are unlikely reserved to have effect for them, unless minorities achieve." Before any bill is brought on the floor of the senate, it must be approved by the committee on revision and amendment to correct inconsistencies, repetitions, and inconsistencies. Thus the legislative history and the utility of bills in committee are preserved, and the authoritative interpretation and construction in legislation are determined.

The co-operation relationship between the two houses are figured through the committee system. Special provisions for the introduction of bills, resolutions, and all joint functions upon them. The joint rules of the two houses provide for - authorizes by concurrent in any case of difference in any problem of legislation. The joint committee of the two houses, and all committees of conference are composed of the members and three members of the committee, subject objection specially covered by concurrent resolution. The report of the joint committee must be read in each house before a vote is taken on the

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1. J. A. Cole, History of the Government of Denver (1911). pp. 108 ff.
2. Thomas Burton, op. cit., p. 80.
3. Ibid., p. 77; Thomas Burton, op. cit. - 7.

subject under consideration. If the difference is continued, the bill which is the subject of the difference is lost and may not be reviewed again during the same session in either house.[1]

In addition to the standing committees which are provided by the senate and the house, there are special committees appointed for a specific and temporary purpose. Many furnish a solid basis for constructive legislation. In the absence of expert administrative initiative, much is accomplished toward enlightening the electorate and the lawmaker, and also toward drafting statutes.[2]

The legislative committee system as a whole is of undoubted value.[3] A few members of the legislature may become well informed on a particular subject. The committee not only gives the legislature a basis of action according to the merits of the case under consideration but it also brings to the legislators the wishes of the people. It brings to them a more adequate conception of the conditions which are to be regulated by the proposed legislation. "Finally", says Professor Beard, "it helps to prevent hasty and ill-considered legislation."[4] The conditions with respect to the committees in the Colorado legislature are particularly fortunate. The size of the secondary groups is favorable to efficient service. A group of even fifteen, the largest committee, may gather around a table for discussion with free expression of opinion by individual members. Through the small

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1 House Rules, pp. 82 - 84.
2 C. E. Merriam, American Political Ideas (1920), pp. 111 - 112.
3 Beard, op. cit., p. 535.
4 Ibid., p.535.

[illegible] means manipulation. If the citizenry is ignorant, the [illegible] which is the subject of the difference is just may not be [illegible] through [illegible] in what majority in which group.

In addition to the educative measures which can provided by the media and the lawmaker. There are special measures required for a specific and temporary problem. Here Crozier, while lamenting bureaucratic legislation. In the absence of expert administrative initiative, much is manipulated through maintaining the distinction and the lawmaker, and then through devising statutes.

The legislative committee system as a whole is of questionable value. A few members of the legislature may become well informed on a particular subject. The committee not only gives the legislature a basis of action especially in the matrix of the more public committees but it also helps to the legislature the subject of the matter. It helps to lessen a more adequate consideration of the measures which are to be supplied by the proposed legislation. "Finally", says Professor Bowen, "it helps to secure a better and fit specialized legislation." The committee also helps to the committees in the form public legislature and constitutionally obligatory. The size of the personnel may change in proportion to efficient service. A group of seven fifteen, the largest committee, may prove irksome a table for discussion with free exercise of opinion by individual members. Though the small

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1. Cheng Hsiao, op. cit., 61 - 64.
2. W. R. Bowen, Democracy Training Issue (1950), pp. xii - xiii.
3. Bowen, op. cit., p. 62.
4. Ibid., p. 64.

committees there is less opportunity also for the distribution of patronage, which never operates for efficiency.

The disadvantages frequently attached to the committee system are somewhat mitigated in the Colorado system. The smothering of measures in committee is discouraged by the requirement that every bill committed to the house committees must be reported back in four days; and, in the senate also the measure is safeguarded. With respect to the work of committees, as in most other procedure, the rules may be explicit but they are not always followed in practise.

As in the senate, the members of the house are under restrictions which are calculated to promote the efficiency and honest work of the lower branch of the legislature. Every member who is present is required to vote on every question unless he is excused by the house, or unless he is directly and personally interested in the question.[1] Attendance at the daily sessions is obligatory. Neglect of a member to do so calls for a reprimand by the speaker, unless excused by the house. Absence from the house for more than twenty minutes, without leave previously obtained, is a violation of the house regulations. Absence for more than one day requires the consent of two-thirds of all the members present, but absence for one day requires the consent of a simple majority of those present. If a quorum is not present at the time of convening of a regular meeting, attendance of absent members may be compelled; and any expense incurred in each case must be paid by the absentees.[2] Neither shall

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1 House Rules, pp. 25, 32.
2 Ibid., pp. 26, 27, 32.

[illegible] there is been apparently made for the distribution of [illegible], which have operated for efficiency.

The disadvantages immediately attached to the committee system are [illegible] related to the [illegible] system. The [illegible] of measures to committees is discouraged by the requirement that every [illegible] committed to the [illegible] committees must be reported back to [illegible] days, and, in the house like the senate, it [illegible]. [illegible] reported to the work of committees, we is [illegible] [illegible]. The [illegible] are to explicit but they are not always defined in practice.

In the senate, the members of the house are [illegible] [illegible] which are calculated to promote the effectiveness and [illegible] of the lower house of the legislature. Every member who is present [illegible] related to vote on every [illegible] which is required by the [illegible], or voting in the directly and personally interested in the question.[1] Attendance at the daily sessions is [illegible]. Members are [illegible] to do so with the [illegible] by the speaker, [illegible] [illegible] by the house. Absence from the house for more than [illegible] [illegible], without leave granted [illegible], is a violation of the [illegible] regulations. Members who were [illegible] [illegible] [illegible] of two-thirds of all the members present, but absence for one day requires the assent of a single majority of those present. If a member is not present at the time of announcing of a regular [illegible] attendance of absent members may be excused, and any absence [illegible] is not given must be paid by the absentee.[2] Neither shall

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1 House Rules, [illegible], [illegible].
2 Idem, [illegible], [illegible], [illegible].

the work of the house be delayed by the introduction of extraneous material when a member is addressing the house. Whenever any objection is made, the matter is decided by majority vote without debate.[1] Likewise debate is limited to one-half hour on any question, except in the case of the member who introduces the measure, who may have one hour to close the discussion. No member is allowed to speak more than once on the same question, without leave of the house, except in the case of the introducer or proposer of the measure.[2]

To expedite the work of the houses, a liberal provision is made for employees.[3] In the senate the list of officers and employees includes forty-six names; and in the house, there is the same number. The officers of the house are the speaker of the house, chief clerk, assistant chief clerk, reading clerk, docket clerk, speaker's stenographer, house reporter, chaplain, sergeant-at-arms, and three assistants sergeant-at-arms.[4] In the list of employees there are eighteen clerks, four messengers, four pages, a janitor for the chamber, a janitor for the cloak room and gallery, a janitor for committee rooms, a matron of women's gallery, and a night watchman.[5] For the smaller body the same number of officers and employees, of practically the same character, is engaged to carry on the business. After making a study of the practises of the legislatures of the several states, Professor

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1 Ibid., pp. 28 - 29.
2 Ibid., p. 39.
3 Mills Annotated Statutes, Sec. 3315; Constitution of Colorado, Art. V, Sec. 27.
4 House Rules, p. 9
5 Ibid., pp. 10 - 11.

the work of his hands be judged by the introduction of microscopes
[illegible] when a master is addressing the house. Thereby any sign-
ifica is made. Are matter to decided by majority vote against Jesus.
Likewise Jesus is invited to pass-out tues ay any question, re-
ply is the case of the woman who interrupted the sermon, "a may
then you have to adjust the discussion. Of course is difficult to speak
more than once on the same question, without issue of the house, re-
ply is the case of the interference or pressure of the preacher.

To exercise the work of the laymen, a liberal provision is
made for engl-speak. In the church the list of officers and employes
includes fifty-six women; and in the church, there is the same number.
The officers of the house are the speaker of the house, chief clerk,
legislative audit clerk, auditing clerk, daily clerk, reading's clerk,
author, house reporter, chaplain, sergeant-at-arms, and three assistant
sergeant-at-arms. In the list of employes there are eighteen clerks,
five messengers, five pages, a janitor for the chamber, a janitor for
the chief room and gallery, a janitor for committee rooms, a janitor
of house's gallery, and a night watchman. Are the senior body the
same number of officers and employes, or, more-intensify the same diversi-
ty, is expected to accrue on the increase. Often meeting a study of
the questions of the legislatures of the mentioned states, Stanbery

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1. Ibid., pp. 8 - 10.
2. Ibid., p. 28.
3. Edith Abbott [illegible], New, 1933, Municipalities in Transition,
pp. 7, 8, 9.
4. Same Notes, p. 7
5. Ibid., pp. 12 - 13.

Dodds reached the conclusion that the number of employees in the service of the states to carry on the business of the legislatures bears a strict ratio to the size of the party majorities; that one-third of the number could efficiently do the work.[1] The size of party majorities in the Colorado legislature, however, does not affect the number of employees, but the duplication of the workers of the larger body in the senate may indicate that a larger number is employed than necessity demands.

Procedure in the Legislature

The actual procedure in the state legislature is difficult to present. Although it follows generally recognized practices common to state legislatures, the rules and regulations which are declared in the constitution, in the statute law, and in the senate and house rules are not always followed in practice. Disregarding the modifications and irregular detail, the general character of actual lawmaking may be presented.

The constitution prescribed certain limitations on procedure. Every law must be passed in the form of a bill, without alteration or amendment in either house which will change its original purpose.[2] The bill is limited to one subject, which must be clearly expressed in the title. By this means vicious bills or "riders" are not allowed to be coupled with desirable measures. Such a practise, however, does not nullify the whole measure, but only such part as may not be

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1 Op. cit., p. 23.
2 Constitution of Colorado, Art. V, Sec. 17.

Bills pending the conclusion that the number of employees in the union of the minors is minor in the instance of the legislation bears a direct ratio to the size of the work undertaken but one-third of the member could efficiently do the work. The size of work undertaken in the Illinois legislature, however, does not affect the number of employees, but the functions of the members of the legislature in the session may indicate that a larger number is employed than currently needed.

Problems in the Legislature

The point of procedure in the whole legislature is difficult to present. Although it claims generally recognized practices common to whole legislatures, the rules and regulations which are binding in the investigation in the Illinois Jury, and in the remarks and boom which are not always followed in practice. Nonetheless the multitudinous and intangible details, the general observance of method lessons the may be preserved.

The constitutions governing certain institutions as commission. Every law must be passed in the form of a bill, without adjustment in amendment in either house which will change its original purpose. The bill is limited to one subject, which must be clearly expressed in the title. By this means riders bills or "riders" are not allowed to be coupled with desirable measures. Such a procedure, however, does not nullify the whole measure, but only such part as may not be

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1 Op. cit., p. 82.
2 Constitution of Illinois, Art. V, Sec. 17.

properly included in the title.[1] Provision is made for three separate readings in each house; and all amendments must be printed and made available for the use of the members before the final vote can be taken. That the bill may become valid as law, it must be accepted by a majority vote of all the members elected to each house, and the vote by ayes and noes must be recorded in the journals.[2]

Due publicity is required in the procedure. The sessions of each house and of the committees of the whole must be open, unless the business is such that it ought to be kept secret.[3] Each house is required to keep a journal of its proceedings, which it may publish, at its discretion, from time to time, except such matters as require secrecy. At the request of any two members, the ayes and noes on any question must be entered on the journal.[4] No bill shall become a law or even be considered unless referred to a committee and returned in printed form for the use of the members.[5] That measures may not be "jammed" through without opportunity for due consideration, the time for the introduction of bills, except general appropriation bills, is limited to the first fifteen days.[6]

The character of legislation and the procedure are further restricted: the general assembly is not allowed to pass any local or

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1 Ibid., Art. V, Sec. 21.
2 Ibid., Art. V, Sec. 22.
3 Ibid., Art. V, Sec. 14.
4 Ibid., Art. V, Sec. 13.
5 Ibid., Art. V, Sec. 20.
6 Ibid., Art. V, Sec. 19.

special laws relating to a group of enumerated cases, twenty-eight in number, and in all other cases, where a general law can be made applicable, no special law is permissible.[1] All revenue bills must originate in the house of representatives, but the senate may propose changes as in the case of other bills.[2] The general appropriation bill may include nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations must be made by separate bills, each including but one subject.[3] No appropriations are permitted for charitable, industrial, educational, or benevolent purposes, or to any agency not under the absolute control of the state, or to any denominational or sectarian institution.[4] The power delegated to the general assembly may be exercised by the legislature alone. It may not be delegated to any special commission, corporation, or association.[5]

The regular order of business as prescribed by custom and by the rules of the house is (1) calling to order by the speaker, (2) prayer by the chaplain, (3) roll call, (4) reading and approval of the journal, (5) presentation of petitions and memorials, (6) reports of standing committees, (7) reports of special committees and messages from the governor, (8) communications from state officers, (9) messages from the senate, (10) introduction and consideration of resolutions, (11) introduction of bills, with reading by title, (12) third reading

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1 Ibid., Art. V, Sec. 25.
2 Ibid., Art. V, Sec. 31.
3 Ibid., Art. V, Sec. 32.
4 Ibid., Art. V, Sec. 34.
5 Ibid., Art. V, Sec. 35; Burcher v. People, 41 Colo., 501.

[illegible]

of bills, (13) second reading of bills, and general orders.[1] The business of the house is classified and assigned to certain lists. The clerk makes a list of all bills in the order in which they are reported from committees, resolutions, reports of committees, and other proceedings of the house, which are committed to a committee of the whole house, and which are not made the order for any particular day and hour; and this list is called the General Orders. Another list contains all the interests which have been set down for consideration at some particular day and hour; and this is called the Special Orders. A third list contains all bills, resolutions, and memorials which may be on their third reading; and this is called Bills upon Third Reading. These lists constitute the general calendar of the house which is printed and laid before each member. Supplements each day keep the general calendar up-to-date. The general calendar and all procedure are subject to revision by vote of the house.[2]

Every bill is read by title when introduced into the lower house. After the first reading the bill is referred to a standing or special committee by the speaker, subject only to be changed by a decision of the house. It is given to the docket clerk who makes registry of it, and delivers it to the chairman of the committee to which it was referred. The consideration of the bill by the committee is followed by the recommendation: that it be ordered printed; that it lie on the table; or that it be indefinitely postponed, with

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1 House Journal (1919), pp. 25 ff.; House Rules, pp. 33-34.
2 House Rules, pp. 22 - 24.

reasons of the committee given for the action.[1]

If the report to print is adopted, the bill is printed and returned to the original committee, when it is again considered upon its merits, after which the committee reports to the house: that it be considered in the committee of the whole; that it be referred to the committee of the whole without recommendation; or that it be indefinitely postponed, with reasons for the action.[2]

When the bill is considered in the committee of the whole on second reading it is subjected to debate and considered section by section, unless it is advanced to third reading or recommitted to any standing committee for further consideration. The committee of the whole reports its decision, through its chairman, to the house, which either amends, adopts, or rejects the report of the committee on the whole. Should the bill be recommended for further consideration, the bill is ready for its third reading, the house adopts it, a member may reopen debate by moving to strike out the enacting clause, or it may be recommitted to some committee, as the house may direct.[3]

In the senate the proceedings are essentially like those in the house, except that no absolute time limit is pladed on the committees in reporting measures and the limitation on debate is less restrictive.

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1 Ibid., pp. 54, 73.
2 Ibid., p. 55.
3 Ibid., pp. 56 - 57.

reason of the conditions given for the action.[1]

If the proper do action is adopted, the will is guided and directed to the original condition, when it is again constituted upon its basis, after which the condition supplied to the inner; that is the consequent in the condition of the action; that it be directed to the condition of the whole without consequentiality; or that it be indefinitely postponed, with reason for the action.[2]

When the will is constituted by the condition of the world as absent reality, it is motivated to labour and successful working by motives, unless it is affected in other reality or connected to other objective conditions for further consideration. The condition of the whole provides life decision, through the element, it the inner, which either accepts, adopts, or refuses the proper of the conditions on the world. Should the will be connected for further consideration, the will is ready then the final reading, the inner adopts it, a decision may proper future by moving to strive and the reading change, or it may be reconsidered to some condition, as the inner may direct.[3]

In the world the consequence are substantially like those in the inner, except that as absolute then Kant's is guided by the conditions in supporting measures and the limitation or future is here restricted.

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1. Ibid., pp. 66. 77.
2. Ibid., p. 84.
3. Ibid., pp. 86 - 87.

Work of the Legislature

The work of the legislature is characterized by the excessive number of legislative enactments. Two limitations on the amount of legislation are legally imposed: the session is limited to ninety days and the introduction of bills, to the first fifteen days of the session.[1] The actual amount of work done by the legislature in 1921 is expressed by the following:[2]

Introduced in the senate

Senate resolutions	6
Senate joint resolutions	7
Senate concurrent resolutions	6
Senate bills	614

Introduced in the house

House resolutions	4
House joint resolutions	1
House concurrent resolutions	1
House joint memorials	5
House bills	813

Senate bills enacted into law	150
House bills enacted into law	115

Since the Twenty-third General Assembly was in session eighty-one days, the amount of time given to each bill, had all the time been consumed in their consideration, must have been very limited. On an average three and a fourth bills must have been enacted into law every day of the session. When it is considered that less than eighteen

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1 Constitution of Colorado, Art. V, Sec. 19.
2 Index of Senate and House Bills, pp. 72 - 85, 191 - 199.

Duty of the Legislature

The work of the Legislature is characterized by the remarkable number of Resolutions enacted. The Legislature at the request of [illegible] the Supreme Court. The session is ended by stating [illegible] the introduction of Bills. In the first Session of the [illegible] Session. The second session it was here by the Legislature is [illegible] authorized by the Bill[illegible]:

Introduced in the Senate

Senate resolutions 4

Senate joint resolutions.....7

Senate concurrent resolutions.....2

Senate Bills.....[illegible]

Introduced in the House

House resolutions.....4

House joint resolutions.....3

House concurrent resolutions.....2

House joint memorials.....3

House Bills.....[illegible]

Senate Bills approved by the Governor.....[illegible]

House Bills approved by the Governor.....[illegible]

Among the Twenty-first General Assembly was in session eight days. The amount of time spent in each bill, and all the time been devoted to State administration, must have been very limited. Or so [illegible] just a bunch bills must have been enacted with the study [illegible] of the session. This it is considered that Iowa [illegible]

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1. Journals of Legislature, pp. 7, 8-9, 12.
2. Laws of Iowa, 1st Extra Sess. pp. 3, 7, 8, 9, 10, 12, 13.

per cent. of the bills which were introduced by members became law, the necessity for and value of the committee system, at least, become apparent. In order to deal with the mass of proposed legislation, hasty consideration of measures becomes necessary, whether the consideration is by committee or by the house as a whole. Since too the range of interest covered by the bills is so great, the members must deal superficially in many instances, with measures about which they are uninformed. The bills are frequently drafted in poor form by individuals unacquainted with the detail of lawmaking; hence much conflicting and inconsistent legislation is the result.

One of the most seriously detrimental influences operating against the successful working of the state legislature is the lack of responsibility for the results of legislative enactment. This is fostered by the methods of procedure in the houses themselves and by the attitude of the general public. The many committees which serve in connection with each house do not always work harmoniously; and the division of interests tends to shift responsibility; at least, to make it difficult to fix responsibility for what is done. In addition to this the member who introduces a bill in no sense assumes responsibility for it. In the senate of the Twenty-third General Assembly one member introduced ninety-seven bills, and in the house one member introduced eighty-three bills.[1] It is obvious that these members could not sponsor these measures to any considerable degree; much less to have an understanding of them. Although

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1 Index of Senate and House Bills, pp. 84 - 197.

one of these members presided over a committee to which 273 measures were referred, only a small number of his own introductions were referred to his committee.[1] Then too when a member votes in either house, his act is not properly recorded. After the vote is taken, but before it is announced by the presiding officer, any member has the privilege of changing his vote.[2] In this way, the member's constituency may not know how their representatives stood on a measure or how his influence was used. To add to the conditions in the general assembly itself, which tend to irresponsibility, the people have little concern over the work of the legislature, unless measures of taxation are under consideration. At the close of the Twenty-third General Assembly, its work was summarized in an article occupying less than a single column of the daily newspaper.[3]

Defects in legislation are due also to other practises which are common to all legislative procedure; such as, "log-rolling", bribery and the lobby. The constitution attempts to safeguard the legislature against these practises by providing that if any person elected to either house of the general assembly offers or promises to give his vote or influence in favor of or against any measure upon condition that any other person will do the same in relation to any other measure, he is guilty of bribery.[4] Besides this special

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1 Ibid., pp. 197, 202.

2 House Rules, p. 29; Senate Rules, p. 31.

3 "Review of Bills Passed by 23d State Assembly", in Greeley Tribune-Republican, April 15, 1921.

4 Art. V, Sec. 40.

reference to bribery, the usual practises included in the term are noted and penalty is provided.[1] The lobby is recognized by the house rules as a legitimate practise but one requiring regulations. No lobbyist is permitted to enter the chamber, or any of the adjoining rooms during the time the house is in session, except as provided by the rules. Any lobbyist is required to register with the chief clerk of the house and name the bills upon which he desires to be heard. A card is issued to him, which will permit him to appear before committees to which the bills have been referred. It is also provided that the chairman or a majority of the committee may permit a person to address it. But in this case the name of the person given the privilege must be filed with the chief clerk by the chairman of the committee.[2]

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1 Art. V, Sec. 40 - 42.
2 House Rules, pp. 65 - 66.

reference to Gandhiji, the moral questions involved in the jurisprudence and penality is quested.[1] The judge is assaulted by the accused who is a lunatic; previous but the regulative regulations. The judge is unmoved in action for accused, in spite of the activities and arms during the time the judge is in action, except as provided by the rules. Any judicial is required to regulate with the relief which of the human and some the bills upon which he during is to be heard. A case is heard in his, which will permit him to appear before consistent to which the bills have preferred. If he also provided that the accused or a majority of his committee may permit a person to address it. This is his case the man of the judge gives the privilege must be kept with the grief which by the citizens of the committee.[2]

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1 Art. V, Pen. Act - Ch.

2 Judge Living, Pp. 22 - 24.

CHAPTER V

THE STATE EXECUTIVES

When the general public policy of the state has been formulated, it rests with the state executives to provide for the administration of the laws to carry it into effect. Under the constitution the executive department consists of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general, and superintendent of public instruction.[1] These officials are elected at the general election in November in the even-numbered years, by the qualified electors of the state. Their terms of office begin on the second Tuesday of January next after their election.[2] The qualifications for these offices are prescribed in the constitution. No person is eligible to the office of governor, lieutenant-governor, or superintendent of public instruction who has not attained the age of thirty years, nor to the office of auditor, treasurer, secretary of state, or attorney-general who has not reached the age of twenty-five years. In addition to these qualifications the attorney-general must be a licensed attorney of the supreme court of the state.[3] The general qualifications of citizenship in the United States and residence within the state for two years next preceding the election are likewise required.[4] Only the auditor and treasurer are ineligible for re-election.[5]

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1 Art. IV, Sec. 1.
2 Constitution of Colorado, Art. IV, Sec. 1 - 2.
3 Ibid., Art. IV, Sec. 4.
4 Ibid., Art. IV, Sec. 4.
5 Ibid., Art. IV, Sec. 21.

CHAPTER V

THE STATE ECONOMY

Even the general public utility value of the state has been forgotten. It deals with the state economy to provide for the administration of the law in order to carry it into effect. Under the consolidation the executive department consists of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general and superintendent of public instruction.[1] These officials are elected at the general election in November in the even-numbered years, by the qualified electors of the state. Their terms of office begin on the second Tuesday of January next after their election. The qualifications for these officers are prescribed in the constitution. In order to be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction one has not attained the age of thirty years, nor to the office of auditor, treasurer, secretary of state, or attorney-general one has not reached the age of twenty-five years. In addition to these qualifications the attorney-general must be a licensed attorney of the supreme court of the state. The constitutional qualifications of eligibility in the United States and territories are also the same for one desiring to be elected for different offices.[2] Only the auditor and treasurer are ineligible for re-election.[3]

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1. Art. IV, Sec. 1.
2. Constitution of Illinois, Art. IV, Sec. 1 - 2.
3. Ibid., Art. IV, Sec. 4.
4. Ibid., Art. IX, Sec. 4.
5. Ibid., Art. IV, Sec. 21.

The Office of Governor

The governor is made the chief executive of the state by the constitution,[1] and as such he is the head of the executive department of the government. Certain functions and duties are conferred upon him by both the constitution and by statute law.

In order that the governor may be in close touch with the work of various administration agencies, he is made an ex-officio member of ten boards and commissions.[2] The governor is not a regular attendant of the meetings of all these boards and commissions, but he is required by law to be present at meetings of the board of equalization, the auditing board, the board of capitol managers, the board of agriculture, and the state board of canvassers. The other boards he attends but infrequently on special occasions.[3] The reason for the governor being designated a member of some boards and not of others is not stated in the laws.

The power of appointment and removal which may be exercised by the governor is conferred by constitutional or statute law. He is empowered to nominate, and, by and with the consent of the senate, to appoint all officers whose offices are created by law or established by the constitution, when their selection is not otherwise provided

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1 Ibid., Art. IV, Sec. 2

2 Directory of State and County Officers, 1921-2. The governor serves on the following: board of equalization, military board, board of capitol managers, board of charities and corrections, board of pardons, bureau of child and animal protection, historical and natural history society, board of immigration, board of agriculture, and board of control of industrial school for girls.

3 Report on a Survey of the Office of Governor of the State of Colorado, No. I, p. 12.

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1 Ibid., Art. IV, Sec. 2.

2 Directory of state and county officers, 1922-3. The governor serves on the pardoning board of commissioners, military board, board of equalization, board of charities and corrections, board of commerce, board of public and school buildings, historical and natural history, board of agriculture, board of institutions, board of examiners, and board of railroad commissioners.

1 Report to a Survey of the Office of Governor of the State of Illinois, Ch. I, p. 12.

for.[1] In the case of offices created by the constitution and the appointment of the officials committed to the governor, the power of appointment may not be taken from him. But any offices created by statute law come within the jurisdiction of the legislature as to appointments, which may be committed to the governor, or to any other officer.[2] The manner of appointment to offices, created by statute, is usually determined by the same law which creates them. The extent of the governor's authority over appointments was curtailed by the constitutional amendment and the law of the legislature enacted in the following year to enforce it, which provided for the application of the merit system to appointments.[3]

The authority of the chief executive of the state over appointments is further limited by the election of the heads of departments and the members of the board of regents of the state university. With the power of appointment removed from his control, with appropriations made directly by the legislature, the control of the governor over the departments is almost negligible.[4] Then too in the selection of officials in charge of boards, commissions, and institutions, the advise and consent of the senate are necessary in making appointments.[5] Although it is assumed that by this method there will be a degree of popular control over appointments and that the governor will have the ad-

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1 Constitution of Colorado, Art. IV, Sec. 6.
2 The People ex Rel. v. Copp, 61 Colo., 396.
3 Constitution of Colorado, Art. XII, Sec. 13; Session Laws of 1919, pp. 143 ff.
4 Report on the Survey of the Office of the Governor, No. I, 17.
5 Twenty-seven boards, commissions, and institutional official groups are appointed by the governor, subject to the confirmation of the senate.

vantage of capable advice, without undue party consideration in making appointments, the contrary has been the experience. The division of power and responsibility between the governor and the senate has lessened popular control and has tended to introduce party considerations.[1]

There appears to be no uniformity or consistency in the present methods of appointment by the governor. All positions on examining boards are filled by the governor without the consent of the senate, with the exception of the board of dental examiners. The state bank commissioner, the game and fish commissioner, and the irrigation division engineers are appointed with the approval of the senate, while the chief coal mine inspector, commissioner of mines, highway commissioner, and the state engineer are chosen by the governor alone. All members of boards in control of state institutions, except in the case of the home for neglected and dependent children and the industrial shop for the blind, are appointed with the consent of the senate. The members of the board of corrections in charge of the penitentiary, the reformatory, and the insane asylum, together with the wardens of the penitentiary and the reformatory are appointed by the governor with the approval of the senate; but the selection of the superintendent of the insane asylum is left with the board of corrections. The confusion in appointments is further expressed in procedure with respect to the public utilities commission and the industrial commission whose members

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1 Mathews, Principles of American State Administration, p. 90. The senate of the Twenty-third General Assembly failed to ratify only one minor nomination.

are appointed with the consent of the senate, the tax commission whose members are chosen by the governor and the state treasurer, and the civil service commission whose members are chosen by the governor alone.[1]

In these several cases it is apparent that there is not sufficient reason for the differences in procedure. In some instances the system of appointments conflicts with efficiency in control; in other instances the civil service law is disregarded. There appears great need for reform in the methods of appointment to office in the state government.

In addition to the provisions for ordinary service of the governor in making appointments, the constitution allows the vacancies in the offices of auditor, treasurer, secretary of state, attorney general, and superintendent of public instruction, all of which are elective offices, to be filled by appointment by the governor.[2] The general statutes also provide a blanket provision by which all vacancies in any state or county office, and in the supreme and district courts, unless otherwise provided by law, are to be filled by gubernatorial appointment until the next general election.[3]

The governor's power of removal is provided for in the constitution. He may remove any official whose offices are established by the constitution or whom he may appoint by law, either with or without the consent of the senate, "for incompetency, neglect of duty, or malfeasance in office."[4] Several references to removals in certain cases are also included in the statutes. Thus the governor may remove offi-

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1 Report of the Survey of the Office of the Governor, No. I, 16-17.
2 Constitution of Colorado, Art. IV, Sec. 6.
3 Mills Annotated Statutes, Sec. 2525.
4 Constitution of Colorado, Art. IV, Sec. 6.

cers and employes who fail or refuse to submit reports as required by law.[1] County assessors, likewise, who do not conform to the provisions of the law affecting them, may be removed by the governor.[2] The governor is empowered also to suspend the treasurer, in case he is indicted, charged with a misdemeanor.[3]

By the law providing for the civil service, persons in the classified service hold their positions during efficient service. They may be removed only for inefficiency, misconduct, or insubordination, or to promote the service, upon written charges to be determined by the commission after an opportunity to be heard has been given the party concerned. The appointing power, however, has the authority to suspend for ten days an employe who, in his judgment, is guilty of any misconduct or breach of discipline.[4] This law obviously restricts the authority of the governor as previously provided by the constitution and statute law.

The relations of the governor to the other executive offices are further determined both by constitutional and statutory law. The governor may require information in writing from the various officers upon subjects relating to the duties of their respective offices.[5] In addition to these special reports which may be required at any time, they are commanded to make annual report to the governor at least twenty days preceding each session of the general assembly.[6] The supplemt-

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1 Mills Annotated Statutes, Sec. 2708.

2 Ibid., Sec. 6346. During the encumbency of the present governor who has served more than one-half of his second term, there have been two removals from office.

3 Ibid., Sec. 2769.

4 State Civil Service Commission of Colorado (1919), pp. 51-2; also Constitution of Colorado (Amendment), Art. XII, Sec. 13.

5 Constitution, Art. IV, Sec. 8.

6 Ibid., Art. IV, Sec. 17.

ing statutes provide that these reports, whether made to the governor or to the legislature, shall be in the hands of the governor on or before the fifteenth day of November next preceding the session of the general assembly.[1] It is specifically provided that every appointed officer and employe of any department, board, bureau, commission, or office under the state shall comply with the request of the chief executive for a report of all transactions, duties performed, and moneys collected and disbursed, and any other interest of the particular division of government.[2] Practically every department or division of the administrative branch of government makes an annual or biennial report to the governor.

Through the control and supervision of the finances of the departments and divisions the governor exercises a varying degree of control over them. When he submits estimates of the amount of money required for the purposes of the state, and when he exercises the power to approve or to disapprove of items of appropriations of money, the governor may exert a controlling influence over any division of the government. In some cases also the payroll of the department requires the governor's signature, and funds to be made available must have his approval for withdrawal. The Report of the Survey Committee names fourteen boards whose vouchers must be signed by the governor before funds are available; and in addition to these there are the vouchers

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1 Mills Annotated Statutes, Sec. 5298.
2 Ibid., Sec. 2708.

of the military department, those drawn against the permanent school fund, and specially appropriated funds, all of which must be signed by the chief executive.[1] And further, all contracts for supplies for any officer of every department of government are subject to the approval of the governor and state treasurer.[2]

Thus it appears that the control of the officers of the administration is exercised by appointment to office, by some measure of supervision while officials are in office, and by suspension or removal from office. Although heads of departments bear titles similar to those in the president's cabinet, the relationship between the chief executive and the heads is in no sense like that of the president and cabinet heads. The position of the department head, who is popularly elected, in state government is determined by the constitution and by statute laws. In this way, Professor Mathews points out, "administrative insubordination is likely to produce an unsatisfactory and even disastrous condition of affairs."[3] Although the selection of the heads of the executive departments is not in the power of the governor, he does have the appointment of the most of the administrative bodies, the boards and commissions. Even in these offices, however, the duties are determined by the constitution and by law.

In his relations with the legislative division of state government, the position of the governor is defined by constitutional or

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1 No. 1, pp. 25 - 26.
2 Constitution of Colorado. Art. V, Sec. 29.
3 Op. cit., p. 87.

statutory enactment. "At the commencement of each session", the constitution declares, "the governor shall give to the general assembly information of the condition of the state and shall recommend such measures as he shall deem expedient."[1] In case he considers the condition of the state such that immediate action is desirable, a special session of the legislature may be called.[2] When such extraordinary session is convened, no business other than that named in the call of the governor may be transacted.[3] These functions of the governor do not confer upon him the right to initiate legislation, but the messages often give suggestion for legislative action, and so the public policy is partially determined.[4]

The extension of the influence of the chief executive over the activity of the legislative body is accomplished also through the submission of the estimates of revenue and expenditure. Through the preparation and the submission to the legislature of a budget which was done for the first time in 1921, the governor presents to the legislature a financial program containing a complete plan of proposed expenditures and estimated revenues for the biennial period.[5] The effect of this plan is partially lost by the various administrative offices making direct appeal to the legislature for support. Although the budget has no legal effect upon the legislature, it gives opportunity for a governor who is a recognized political leader to exercise an

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1 Art. IV, Sec. 8.
2 Ibid., IV, Sec. 9.
3 Ibid., IV, Sec. 9.
4 The estimate given by the governor is that not in excess of twenty-five per cent. of the bills which become laws are proposed to the legislature by the governor.
5 First State Budget submitted to the Twenty-third General Assembly; Session Laws of 1919, pp. 126 ff.

[illegible]ntary institution. "If the responsibility of such service," the [illegible]ministration declares, "the governor shall give to the general assem[illegible]ly information of the condition of the state and such recommendations [illegible] as he shall deem expedient." In some is embodied the gen[illegible]ration of the state seen that legislative action is constitutes, a special [illegible]ssion of the legislature may be called. When such [illegible] [illegible]ssion is convened, or believes after that time that cases in the call of [illegible] the governor may be summoned. These functions of the governor is [illegible] under upon the right to initiate legislation, not the messages [illegible] give recommendations for legislative action, and on the public [illegible] responsibility [illegible].

The exercise of the initiative of the right executive over the [illegible]ctivity of the legislative body is constitutional also through the [illegible]ation of the veto[illegible] of bills and resolutions. Through the [illegible]ngerative and the mandatory to the legislature of a budget which [illegible] has the direct aim in view, the governor guards in the [illegible]ditions a financial nature requiring a complete plan of proposed [illegible]ditures and related revenues for the biennial period. The effect [illegible] this plan is practically lost by the various administrative [illegible] direct appeal to the legislature for money. Although the [illegible] has no legal effect upon the legislature, it does exercise [illegible] a powerful one in a recognized political leader in America in

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1. [illegible], [illegible], [illegible].
2. [illegible], [illegible], [illegible].
3. [illegible], [illegible], [illegible].
4. The veto[illegible] power by the governor is that not is [illegible] [illegible] [illegible], of the bills which [illegible] have [illegible] [illegible] the legislature for the governor.
5. [illegible] [illegible] [illegible] by the [illegible] [illegible] [illegible], [illegible] of [illegible], [illegible], [illegible].

effective control over the financial legislation.[1] In the case of this first budget, however, the proposal of the governor was given little consideration by the general assembly. The long appropriation bill, as drawn by the house appropriation committee and the senate finance committee, bore little or no resemblance to the budget submitted by the chief executive.

The power to exercise the veto gives the governor a negative control over the acts of the legislature. This gives him the power to prevent the enactment of a bill into a law without receiving his approval, unless re-passed by a two-thirds majority of the two houses of the general assembly.[2] Every resolution, order, or vote which requires the concurrence of both houses, except the question of adjournment or a question relating solely to the transaction of business of the two houses, must be submitted to the governor for his approval or rejection.[3] All measures presented to the governor for his consideration must be acted upon within ten days or they automatically become effective without his approval. In case the adjournment of the general assembly prevents the return of the measure the vetoed bill must be filed, with objections, with the secretary of state within thirty days, or it becomes law.[4] A feature of the executive veto, not always given, is the power to approve or to disapprove any item or items of a bill appropriating money. Disapproved items may, like any bill, be passed over

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1 Mathews, op. cit., pp. 288 - 289
2 Constitution of Colorado, Art. IV, Sec. 11.
3 Ibid., Art. V, Sec. 39.
4 Ibid., Art. V, Sec. 11.

[illegible] matters over the financial legislation.[1] In the case of the Ilani Budget, however, the property of the governor was given [illegible] constitution by the general assembly. The long constitution [illegible], as drawn up by the house appropriations committee and the [illegible] finance committee, here yields to the proclamation in the budget [illegible] published by the chief executive.

The power to amend the veto gives the governor a superior [illegible] over the work of the legislature. This gives the power to [illegible] for expenditures of a bill into a law without requiring its re-[illegible] which requires a two-thirds majority of the membership of the general assembly.[2] Every proclamation, order, or rule which requires the concurrence of both houses, except the question of adjournment or [illegible] relating solely to the transaction of business of the two [illegible], must be submitted to the governor for his approval or [illegible] [illegible] as the governor the bill requiring that he [illegible] from the house of origin, or otherwise within [illegible] days of that [illegible] [illegible] the approval of the general assembly [illegible] the action of the governor the veto will stay in effect, with [illegible], with the exception of state school [illegible], or if he [illegible] [illegible] a veto of the whole veto, and change given, if the [illegible] to approve or to disapprove any item or items of a bill appro-[illegible] money. Disapproved items may, like any bill, be passed over

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1. Thomson, op. cit., p. 208 - 209
2. Constitution of Illinois, Art. IV, Sec. 12.
3. Ibid., Art. V, Sec. 23.
4. Ibid., Art. V, Sec. 22.

the veto by a two-thirds majority of each house.[1]

This power of the governor to influence legislation through the rejection of legislative measures imposes a responsibility upon the governor for the character of legislation; and at the same time he is left without sufficient power to formulate measures, to introduce and defend them.[2] Since it has become the practise in legislative bodies to rush through important measures during the last few days of the session, the power of the governor to veto bills after adjournment is important, especially since the vetoed measure cannot be repassed. Over such bills the power of absolute veto is held by the governor.[3]

If the relations of the executive and the legislative branches of government be considered from the standpoint of the position of the latter body, then there appear two distinctive influences compeling or restraining the executive. It is within the power of the legislature to impose any duty upon an executive officer not repugnant to the principles of the constitution. For example, the governor is made an ex-officio member of boards and commissions. A new law, likewise, may relieve an official of authority previously imposed by statute law. The second influence, a deterrent on the action of administrative offi-

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1 Ibid., Art. V, Sec. 12.

2 Report of the Survey of the Office of Governor, No. 1, p. 10; C. A. Beard, "Reconstructing State Government", New Republic, August 21, 1915 (Supplement).

3 The governor vetoed eight bills passed by the Twenty-third General Assembly. Twenty-four measures were acted upon after adjournment of the legislature.

cials, is the power of impeachment. It is a method of procedure very cumbrous in nature, so it is seldom used. Like some of the recent additions to state government it may be effective without operating. By the constitution the house of representatives is given the sole power of impeachment.[1] The governor and other state executive and judicial officials, except county judges and j stices of the peace are liable to impeachment by a majority of the members of the house for high crimes and misdemeanors, or malfeasance in office. The trial is before the senate sitting for the purpose, when the senators are under oath to do justice according to law and evidence.[2] Conviction requires a two-thirds vote of the senators elected. The penalty is limited to removal from office and disqualification to hold any office in the state.[3]

In addition to the powers which the chief executive usually has conferred upon him and which are legislative or administrative in character, there are certain other powers which are of paramount importance. As a means of making effective the principle "that the military shall always be in strict subordination to the civil power",[4] the governor is declared to be commander-in-chief of the military forces of the state, unless they are called into the service of the United States.[5] By virtue of this position the governor has the authority to

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1 Constitution, Art. XIII, Sec. 1.
2 Ibid., Art. XIII, Sec. 1, 2.
3 Ibid., Art. XIII, Sec. 2.
4 Constitution, Art. II, Sec. 28.
5 Ibid., Art. IV, Sec. 5.

appoint all general, field, and staff officers and to commission them. The other officers are to be elected by companies and commissioned by the governor, but if any company fails to elect its own officers within the time prescribed by law, they may be appointed by the governor.[1] In the exercise of the duties of his position as head of the military of the state, he may call out the militia to execute the laws, suppress insurrection or repel invasion.[2] The governor is the sole judge as to the necessity for calling out the militia; and he may do so on his own initiative when he deems it expedient.[3] Usually, however, it is done at the request of some local civil authority in a governmental division of the state where the maintenance of law and order is beyond the local control. The militia is most frequently used to suppress violence attending strikes and other forms of industrial disturbance.[4]

The militia consists of all the able-bodied men, residents of the state, between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the United States or of the state.[5] The state militia is divided into the national guard and the unorganized militia.[6] For the control of the national guard

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1 Ibid., Art. XVII, Sec. 3.
2 Ibid., Art. IV, Sec. 5.
3 In re Moyer, 35 Colo., 159.
4 In 1920 the municipal authorities of Denver called on the governor of Colorado to provide assistance in controling the lawless element which had taken possession of the City. Not only were the military forces of the state employed but federal troops were brought in to aid in restoring order.
5 Constitution, Art. XVII, Sec. 1; National Defense Act, 1916, Public No. 85, 64 Cong., p. 36.
6 Ibid., p. 36.

and the unorganized militia when it is called out by the commander-in-chief, the governor makes rules and regulations subject to the limitations imposed by the acts of the legislature and the concurrent jurisdiction of Congress to organize and discipline.

To assist in the maintenance of order and the protection of life and property the state legislature in 1921 provided for a state police force called the Colorado Rangers.[1] The law provided an appropriation of two hundred and ninety thousand dollars for the biennial period.[2] This organization, although non-military, is attached to the military department for purposes of supervision and management.

The importance of this feature of the program arranged for the executive department is indicated by the action of the legislature in providing a state military board to advise the governor on all military matters of the state.[3] The general assembly in 1921 provided, out of a total appropriation of approximately six and a half millions of dollars for the biennial period, one million eight hundred and forty-five thousand dollars for the military program, which includes the firm establishment of the state rangers and meeting the federal money in the establishment and maintenance of armories.[4] In discussing the relation of the state governor to the welfare of the people, Viscount Bryce concludes that the executive is responsible for the maintenance of or-

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1 "Colorado Rangers," The State Trooper (Detroit, Michigan), June, 1921.

2 Session Laws of 1921, pp. 252 ff.

3 Survey of the Office of the Governor, No. I, p. 14. Note: This military board is composed of the governor, the adjutant general, and three other military officers.

4 "Review of Bills Passed by Twenty-third General Assembly", Tribune-Republican, April 15, 1921.

der, a function which is not easy when industrial disputes lead to rioting.[1]

As a part of the power granted to the chief executive by the state constitution he has authority to review the action of the courts in criminal cases. The express grant of this power includes reprieves, commutations, and pardons after conviction, "for all offenses except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law."[2] Other restrictions are placed upon the exercise of this power: the constitution provides that the governor shall in every case, where he may exercise this power, send to the general assembly at its next session a report of the action taken.[3] The process by which the action is taken is provided by law.[4] All cases of sentences to the state penitentiary are required to be reported to the board of pardons by the judge of the court and by the district attorney; and these reports are kept on file to aid the secretary of the board in investigating all applications for clemency. When all the facts in the case have been considered by the board of pardons, it is presented to the governor for final action."[5]

A further expression of the special functions of the governor is found in the constitution of the United States: "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the execu-

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1 Modern Democracies, Art. II, p. 81.
2 Constitution, Art. IV, Sec. 7.
3 Ibid., Art. IV, Sec. 7
4 Session Laws of 1919, pp. 252 ff.
5 During the year 1921, which was an average year, sixteen pardons were issued to prisoners in county jails, upon the recommendation of the judge who sentenced and the attorney who prosecuted. One pardon was issued to a boy in the industrial school. Upon the recommendation of the board of pardons two pardons were granted to prisoners in the state penitentiary. Upon the recommendation of the same board

See next page

tive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime."[1] In this as in most other relations between his own state and any other state of the United States, the governor serves as the agent of communication. The obligation to comply with the "demand" has been construed by the federal authority to be merely a moral obligation, for the governor may refuse, for any reasons, to comply.[2] In the laws of Colorado the provision is made compulsory that when the governor of another state makes a requisition for the return of an escaped criminal, the governor shall issue his warrants for the apprehension of the fugitive to any officer of any county, who may be the proper one to execute the process.[3] In like manner whenever the executive of this state shall demand a fugitive from justice from the executive of any other state, he shall issue his warrant to some messenger, commanding him to receive the fugitive and convey him to the county where the offense was committed.[4]

In the act of Congress providing for the enforcement of the constitutional principle, the requirement was made that the demand for the surrender of a fugitive should be accompanied by a copy of the indictment or information charging charging crime, certified by the governor to make it authentic. It was assumed that in giving this function to the highest officer of the state that suitable provision

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forty-two commutations were made.

1 Art. IV, Sec. 2.
2 Mathews, op. cit., pp. 118 - 119.
3 Mills Annotated Statutes, Sec. 3080.
4 Ibid., Sec. 3081.

was being made to secure a careful execution of the duty calling for great caution.[1]

Many other functions are incidental to the office of governor. He exercises a power over state lands by the appointment of the members of the state board of land commissioners,[2] and by executing the deeds for all state lands sold according to law.[3] By an act of the legislature he was given the special responsibility for the enforcement of the laws relating to the sale of intoxicating liquors.[4] The governor is empowered to call special elections to fill vacancies in either house, in addition to his authority to fill vacancies in appointive offices.[5] He must also serve as a member of the board of canvassers to canvass the votes at primary and general elections,[6] and he must certify the list of presidential electors. The legislature has, from time to time, conferred duties upon the executive office, some nominal, and others actual. The practise has been limited, however, by the creation of a new agency whenever any new administrative function has been recognized.

From the statement of the wide range of authority which rests with the governor, it may be assumed that his position carries with it a large measure of influence and prestige. The general trend in state government has been such as to show an increase in the power of the governor. To be sure, the local government has been given a position of almost complete autonomy; and with this movement the authority of

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1 J. H. Finley and J. F. Sanderson, The American Executive and Executive Methods (1907), p. 138.
2 Mills Annotated Statutes, Sec. 5786.
3 Ibid., Sec. 5792.
4 Session Laws of 1915, Chapter 63.
5 Constitution, Art. V, Sec. 39.
6 Election Laws, 1920, p. 112.

the governor over appointive officials was narrowed.[1] On the other hand, the relative position of the governor has been strengthened by the lessening of the prestige of the legislature through the initiative and referendum measures.[2] The development of the tendency toward expertness and efficiency, as shown by the plan of placing the financial program under the direction of an expert on state finance attached to the office of the governor as a confidential adviser, is indicative of the recognition given the chief executive. If the governor is a man of initiative and determination, governed by the right motives, he will find the people of the state anxious to support his leadership.[3] "The people", says Woodrow Wilson, "are impatient of a governor who will not exercise energetic leadership, who will not make his appeals directly to public opinion and insist that the dictates of public opinion be carried out."[4] The governor is especially fitted and properly equipped for political leadership; for he has the opportunity, through being the representative of the people of the whole state, for ascertaining public opinion, for giving it expression, and for bringing to bear force upon an otherwise irresponsible legislature.[5]

The Lieutenant-Governor

The next in rank to the governor among the state officers is the lieutenant-governor. Unless he succeeds to the office of governor his functions are legislative rather than executive. In the role

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1 Constitution, Art. XV.
2 Ibid., Art. IV, Sec. 1.
3 Bryce, op. cit., p. 342.
4 Quoted in Mathews, op. cit., p. 72; J. M. Mathews, "The New Stateism", North American Review, Vol. 193, pp. 808 - 815.
5 F. W. Coker, "Interworkings of State Administration and Direct Legislation", Annals of American Academy of Political Science, Vol. 64, p. 122.

of a legislative officer he presides over the senate but does not vote except in case the senate is equally divided.[1] He succeeds to the office of the governor in case the office is vacant due to the death, impeachment, or conviction of felony or infamous misdemeanor of the governor.[2] Should the office of governor be vacant due to the governor's failure to qualify, resignation, absence from the state, or other disability, the lieutenant-governor assumes the powers, duties and emoluments of the office for the remainder of the term, or until the disability is removed.[3]

To provide for the possible requirement of service in the governor's office, the constitution prescribes the same qualifications for lieutenant-governor as for the governor, and he is elected at the same time and also for the same term.

The Secretary of State

Among the other officials, the heads of executive departments provided by the constitution, there is the secretary of state.[4] His general duties as provided by statute are numerous: he is required to be the custodian of all the acts and resolutions of the general assembly and of the official copy of the constitution; and also of all other records and papers of a public nature.[5] All public property for which no other provision is made is under the care and custody of the secretary. As the keeper of records, the secretary of state files the oath of office of officers of the executive departments, judges of the

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1 Constitution, Art. IV, Sec. 14.
2 Constitution, Art. IV, Sec. 13.
3 Ibid., Art. IV, Sec. 13.
4 Art. IV, Sec. 1.
5 Mills Annotated Statutes, Sec. 2709.

supreme and district courts, and district attorneys.[1] All bonds, books, records, maps, registers and papers of a public character, which are according to law deposited in his office, are kept by the secretary.[2] The preliminary arrangements for registration and the conduct of elections are made by the secretary of state: the county clerks are notified concerning the calling of elections; the registry books and blanks are prepared and furnished; the poll books, tally sheets, and other necessary materials, with instructions, are furnished for the election judges and county clerks.[3] When the elections have been held, the secretary performs still other services, such as, recording and publishing the statements of the state boards of canvassers, notifying county clerks of the election of officers, furnishing the two houses of the general assembly with lists of members and their districts, and providing each member of the electoral college with a list of the presidential and vice-presidential electors.[4]

The corporations and business concerns, organized for business according to the laws of the state, are authorized by certificates of incorporation or the issuance of licenses by the secretary.[5] Some degree of supervision and control is possible through annual reports of corporations filed in the office of the secretary and through the authority given the secretary to investigate the books and business of commis-

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1 Constitution, Art. XII, Sec. 9.
2 Mills Annotated Statutes, Sec. 2709, 599, 2923.
3 Ibid., Sec. 2271, 2334, 2518.
4 Ibid., Sec. 2476, 2271, 2477, 2478.
5 Ibid., Sec. 507 - 8, 900.

[illegible]

[illegible] and district courts, and district attorneys.[1] All judges, including records, [illegible], magistrates and judges of a public administrator, [illegible] [illegible] appointed in the district, are [illegible] by the governor. [illegible] [illegible] appropriately responsible for prosecution and the conduct of elections are made by the secretary of state; the county clerks are principal [illegible] the holding of elections; the county treasurer and sheriff are responsible [illegible] [illegible] and disbursing the public funds; and other county officers, [illegible] institutions, are functional for the planning [illegible] and county clerks.[2] When the electoral boundaries [illegible] the secretary [illegible] certain duties, such as, prescribing and publishing the [illegible] of the whole number of registrars, restricting number of the [illegible] of the qualification of electors, furnishing the ballots of the general [illegible] with lists of members and their districts, and preparing and [illegible] of the electoral college with a list of the presidential and vice-presidential electors.[3]

The responsibilities and functions assigned, generally for business [illegible] to the town or city clerk, are substantial in magnitude of [illegible] or to a lessened of interest to the constituent. Some degree of [illegible] and control is granted through annual reports of [illegible] the activities of the secretary and through the authority given the secretary to investigate the books and business of [illegible]

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1 Op. cit., Art. XII, Sec. 3.
2 Rules Governing Elections, Sec. 1[illegible], [illegible], 1960.
3 Ibid., Sec. [illegible], [illegible], 1962.
4 Ibid., Sec. [illegible], [illegible], [illegible].
5 Ibid., Sec. [illegible] - 3, 3[illegible].

sion merchants, whenever he deems necessary. Another function of importance, due to the industrial conditions in the state, is the regulation of the business of milling, sampling, concentrating, and purchasing of ores by the issuance of licenses. The state law requiring the registering and licensing of motor vehicles is administered through the office of the secretary of state, for the secretary is ex-officio superintendent of the state motor vehicle department.[1]

With the governor and the attorney general, the secretary serves also as an agent to provide for the state advertising and the public printing. The printing and distribution of the senate and house journals, the revised statutes, and the session laws are done through the office of the secretary.[2]

In addition to these general and special functions of the secretary of state, he serves as ex-officio member on some state boards and commissions. On the board of education he serves with the attorney general and the superintendent of public instruction.[3] He serves also as a member of the state board of equalization,[4] of the auditing board,[5] and of the state board of canvassers.[6] Many other duties devolve upon the office of the secretary, the accumulated duties which are not readi-

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1 Directory of State and County Officers, p. 12; Session Laws of 1919, pp. 533 ff.

2 Mills Annotated Statutes, Sec. 4490, 4493, 5298, 3329, 1542; Session Laws of 1913, Chapter 145 - 146; Session Laws of 1917, pp. 512-13.

3 Constitution, Art. IX, Sec. 1.

4 Ibid., Art. X, Sec. 15.

5 Mills Annotated Statutes, Sec. 6830 - 31.

6 Ibid., Sec. 2305 ff.

[illegible] necessarily, should be [illegible] necessary. Neither [illegible] of in-
[illegible], due to the industrial conditions in the state, is the regu-
lation of the business of utility, manufacture, construction, and pur-
chasing of land by the [illegible] of [illegible]. The state has regulating
the registration and licensing of motor vehicles is administered through
the office of the secretary of state, but the material is co-ordinate
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With the governor and the attorney general, the secretary serves
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1 Secretary of State and County Officers, p. 18; Statutes Laws of 1919, pp. 296 ff.
2 Mills Annotated Statutes, Sec. 1497, 1497, 1498, 1499, 1500; Session Laws of 1921, Chapter 149 - 149; Session Laws of 1917, pp. 304-307.
3 Constitution, Art. IX, Sec. 1.
4 Ibid., Art. X, Sec. 1a.
5 Mills Annotated Statutes, Sec. 1490 - 91.
6 Ibid., Sec. 1509 ff.

ly attached to other offices. Of all the work of the office, the secretary is required to make, before the biennial session of the legislature, a full and complete report to the governor, who in turn submits it to the general assembly.[1]

The office force which is required to perform the numerous functions of this executive department is composed of thirty members, with a payroll of forty-four thousand five hundred dollars.[2]

In dealing with all the varied interests of the department there is little discretionary authority. The laws concerning corporations, for example, do not give the secretary control over those concerns doing business in the state; they only authorize him to issue certificates of authority to do business in the state, when the articles of incorporation are submitted to him in the form required by law.[3] In general his powers and duties are determined by the constitution and by statute law. Whatever function in the administration of law that is not attached to some other department is placed in the department of state by the legislature.[4]

The Legal Department

The head of the legal department of the state government is the attorney general.[5] It is his duty to prosecute and defend all actions and proceedings in which the state has an interest,[6] to serve as a legal adviser to the executive and legislative departments of the state government,[7] and to give opinions in writing upon all questions of law

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1 Constitution, Art. IV, Sec. 17.
2 Session Laws of 1921, pp. 45 - 6.
3 Survey of the Office of Secretary of State, No. II, 29.
4 Ibid., p. 30.
5 Constitution, Art. IV, Sec. 1.
6 Mills Annotated Statutes, Sec. 2723.
7 In re House Bill No. 107, 21 Colo., 32.

[illegible] interested in other activity. If all the work of the office, the secretary is obliged to delay, before the financial session of the legislature, a full and complete report of the proceed, who is then subject to the general authority.[illegible]

The action then which is required to perform the numerous functions of this executive department is assigned at highly secretary, with a portfolio of forty-five thousand dire financial matters.

In dealing with all the vast industry of the department from a little discriminatory authority. The have [illegible] [illegible] energy, to put the operating against over them [illegible] [illegible] in the state; they only authority rule to take activities of [illegible] is [illegible] to the state, upon the violation of [illegible] [illegible] are submitted in the to the [illegible] to law. To prevent [illegible] the power not [illegible] the discretion of the [illegible] [illegible] [illegible]. The other function in the administration of law that is not [illegible] [illegible] to some other department is placed in the department of state by the [illegible].

The Legal Department

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1. Constitution, Art. IV, Sec. 32.
2. Revision from of 1921, op. cit. - 8.
3. Compared the Office of Secretary of State, Ch. II, 22.
4. Ibid., 4.
5. Constitution, Art. IV, Sec. 1.
6. Office Reorganization Statutes, Sec. [illegible].
7. Revision from of 1921, op. cit. - 17.

submitted to him by either house of the general assembly, the governor, lieutenant-governor, auditor, secretary of state, treasurer, or superintendent of public instruction.[1]

In addition to these general duties which are assigned to the attorney general, he is required to serve as ex-officio legal adviser for the highway commission;[2] he represents in a legal capacity the industrial commission;[3] and he acts as judge advocate general for the militia.[4] The draft of all contracts for the use of the state are prepared by him. When the auditor or a public examiner requires legal assistance in determining their functions, the attorney general is required to respond.[5] If the permanent funds of the state have been illegally depleted, suit is brought through the office of the attorney general to recover.[6] In many ways this department is the most important in securing the general good conduct in the administration.

The attorney general is expected to function in securing the execution of law in case the local authorities fail to act; for example, he enforces the oil inspection act in case the local district attorney refuses or fails to perform this function.[7] In his report to the governor there is opportunity for recommendation of needed legislation as it becomes apparent to the attorney general. Thus, in the biennial

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1 Mills Annotated Statutes, Sec. 2725.
2 Session Laws of 1921, p. 369.
3 Session Laws of 1917, pp. 544-5.
4 Mills Annotated Statutes, Sec. 4800.
5 Session Laws of 1909, p. 459.
6 Mills Annotated Statutes, Sec. 5839.
7 Session Laws of 1917, p. 377.

report of 1919-1920, recommendation was made that the people of the state should be protected against the unscrupulous promoter and the fake business operations by a "blue sky law".[1]

Besides the regular work of the office, the attorney general is a member of several boards and commissions. Through constitutional provisions he is a member of the state board of education and of the board of equalization; and through statute law he is a member of the bureau of child and animal protection, of the irrigation district finance commission, and of the state auditing board.[2]

The work of the department includes the administration of the inheritance tax law. The appraiser, who is appointed by the attorney general and works under the supervision of the department, performs an important service for the state.[3] During the biennial period of 1919-1920 seven thousand four hundred seventeen estates were handled by the department; and seven hundred eighty-two estates paid a million two hundred ninety thousand dollars inheritance tax.[4] The amount of work done by the department is suggested by the number of cases prosecuted in court:[5]

Civil cases in United States supreme court.....4
" " " " " district courts.....3
" " " Colorado supreme court.....17
" " " " district courts.....442
Criminal cases in Colorado supreme court..... 56
Workmen's compensation cases in supreme and district courts..... 58

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1 Page 17.
2 Biennial Report of Attorney General, 1919-1920, p. 6.
3 Mills Annotated Statutes, Sec. 6215.

The department is administered by ten members, whose salaries cost the state annually eighteen thousand seven hundred dollars. In addition to this, emergency and contingent funds of twenty-six thousand five hundred dollars are provided.[1]

Officers of Finance

The handling and control of the finances of the state are under the supervision of officers whose positions are of high importance in the state. The state treasurer receives the largest salary of the whole group of officials, due to the responsibilities attached to the office.[2] The treasurer is by law the receiver and custodian of the revenues of the state derived from many sources; and he is also the disbursing officer for the appropriations from the treasury, although his acts are controlled very largely by the auditor of state.[3]

The duties and responsibilities of the treasurer are defined by statute law. All moneys of the state, not otherwise required to be kept in the custody of other officials, are received and kept by the treasurer, who also disburses the funds upon warrants drawn upon the treasury according to law. He is required to keep an account of all moneys received and disbursed, and these accounts must show at all times the financial condition of all the departments and divisions of government. Report of the condition of the treasury is

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1 Session Laws of 1921, pp. 51 - 52.

2 Mills Annotated Statutes, Sec. 2729; State of Colorado v. Walsen, 17 Colo., 170. A bond of one million dollars must be secured with ten sureties.

3 Ibid., Sec. 2736.

The department is administered by two members, whose salaries are the state's principal expense. Economic surveys involved delicate [illegible] in Tulsa, Muskogee and Lexington. Some of Quarter-all [illegible] and fire insurance officers are provided.

Officers of Finance

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1. Operating Income of State, op. cit. p. 6.
2. Tulsa Municipal Bulletin, Vol. Jan. State of Oklahoma v. Williams, 37 Okla., 378. A board of one million dollars must be required from the assembly.
3. Ibid., Sec. Jan.

made monthly by the treasurer to the auditor and report is made to the governor at least twenty days before the assembling of the general assembly. The treasurer must be ready to give information on any interest to the general assembly whenever it may be required.[1]

Besides the requirement of the large bond and the reports to the auditor and the governor, the interests of the people are further safeguarded. The governor is authorized to inspect the state of the treasury at any time; and he appoints a committee of three to inspect the treasury in April and October and to file a report with the secretary of state.[2] That there may be no temptation to place funds in banks or other depositories which may not be to the best advantage of the people, the making of personal profit from the state funds is declared a felony. The treasurer may not receive from any source any reward or compensation or profit in consideration of the loan or deposit of any money of the state.[3]

Intimately associated with the work of the treasury department is the auditor of state; in fact, he serves as a check on the treasurer by keeping a record of all moneys paid into and disbursed from the treasury.[4] Like the treasurer, the auditor is required to give bond, which is approved by the governor and attorney general, but only to the extent of thirty thousand dollars. The auditor is the general accountant for the state and the keeper of all papers relating to the

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1 Mills Annotated Statutes, Sec. 2735.
2 Ibid., Sec. 2767, 2786.
3 Mills Annotated Statutes, Sec. 2732.
4 Biennial Report of Auditor of State, 1919-1920, p. 3.

[illegible] monthly by the treasurer to the auditor and report in book is the surveyor at least twice duty before the commencing of the general assembly. The treasurer must be ready to give information on any interest to the general assembly whenever it may be required.

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1 Ohio Constitutional Convention. Ohio, 1912.
2 Ibid., Ohio, 1912, 1912.
3 Ohio Constitutional Convention. Ohio, 1912.
4 Biennial Report of Auditor of State. 1913-1920, p. 3.

financial interests of his office. All claims against the state are audited and settled by him, when not otherwise provided for by law. Any funds drawn from the treasury are by warrant drawn by the auditor. He also audits and adjusts the amounts of collectors of revenue when funds are turned into the treasury. Whenever it may be required he gives information concerning financial interests of the state to the general assembly; and a biennial report is required to be sent to the governor, which includes estimates of revenues and expenditures for the succeeding biennial period.[1]

Both the treasurer and auditor serve as members of the state board of equalization and the auditing board; and the auditor serves as the inspector of building and loan associations.[2]

As a final provision for the safety of the funds belonging to the state, the general assembly enacted that the secretary of state shall name two representatives and one senator to examine the accounts of both the auditor and the treasurer. For this purpose the committee meets the sixth day before the beginning of the session of the general assembly.[3]

The auditor of state is assisted by the state auditing board, composed of the governor, the auditor, the secretary of state, the state treasurer, and the attorney general. The board sits once each month for the transaction of business. Its duties are supplementary to those performed by the auditor alone. It has the direction and control of all appropriations made by the general assembly for con-

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1 Mills Annotated Statutes, Sec. 2779, 2780, 2781.
2 Directory of State and County Officers, pp. 3 ff.
3 Mills Annotated Statutes, Sec. 2792.

tingent and incidental expense of the several executive and judicial departments and state boards and commissions.[1] It has the authority to transfer from the contingent and incidental fund of any department having a surplus to any other department having a deficit. Estimates of and requisitions for supplies and expenses are required to be submitted to the board before action may be taken concerning them. Additional duties have been imposed upon the auditing board through special appropriations for state institutions to be partially administered by it. Not only may the board transfer funds from one department to another but it may also transfer any employe of the state for such time as, in the opinion of the board, may be necessary, without changing the salary or term of service. In the actual functioning of this agency of the state government, as is the case frequently, the work is transferred to another official or group of officials. Hence the state auditor functions largely in the control even of the special appropriations.[2]

The Education Department

The last in the group of heads of executive departments provided for in the constitution is the superintendent of public instruction.[3] This officer attempts to correlate and unify the educational work of the state, through general supervision of the work of the county superintendents and the work of the public schools.[4] To accomplish

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1 Report on a Survey of the State Auditing Board, No. V, p. 9.
2 Ibid., pp. 13-14.
3 Constitution, Art. IV, Sec. 1.
4 Mills Annotated Statutes, Sec. 6588.

this last interest the superintendent is authorized to visit the public schools of the state as the need for such service appears, and for this purpose the sum of five hundred dollars for expenses is provided. In checking the work of the schools, reports from the county officials are required for filing in the office of the state superintendent. A function which may be of great importance is the construction to be placed on the school laws, which is not final, for any decision of the state superintendent may be appealed to the state courts.

There is a further direct contact with the teaching force of the state through the preparation of questions for the quarterly examinations of the prospective teachers. Although the grading of the papers, as well as the conduct of the examination, is in the hands of the county superintendents, it does give the central office a supervisory control. The compelling force exercised by the state superintendent's office is the apportionment among the counties of the state funds for public education.[1]

In addition to the duties specifically attached to the office, the state superintendent serves as an ex-officio member of the state board of education, of the state board of examiners, and of the board of trustees of the state teachers' college and the state normal school. He is also ex-officio state librarian, with an assistant who actively assumes charge of the state library.[2] To assist the superintendent

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1 Ibid., Sec. 6589.
2 Ibid., Sec. 6590.

[illegible] last between the experimenter is attempted by what the [illegible] models of the state as the best for each service agency, and the role papers for use of top national policies for adequate [illegible] partial. In directing the work of the schools, papers from the [illegible] activists are required for filing in the office of the state superintendent. A theoretic claim may be of great importance in the [illegible] is placed in the school town, which is not trial, for [illegible] of the state bureaucracy may be expected in the [illegible] study.

There is a further direct relation with the inquiry for a [illegible] state through the preparation of questions for the university [illegible] of the geography teachers. Although the grading of [illegible] papers, as well as the method of the examiners, is in the hands [illegible] the state university authorities, it does give the student office a [illegible] control. The emphasis thus developed by the state [illegible] responsibility effect in the accomplishment among the students of the [illegible] study for public education.[2]

In addition to the duties specifically stated in the office, the state superintendent serves as an ex-officio member of the state board of education, of the state board of examiners, and of the board [illegible] of training in the state teachers' colleges and the state normal schools. He is also ex-officio state librarian, with an assistant and librarian [illegible] course of the state library. To assist the superintendent

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[1] [illegible], Sec. [illegible].
[2] [illegible], Sec. [illegible].

in establishing contacts with the widely scattered public schools, an elementary school supervisor and educational statistician was added to the office staff in 1919. This brings the total force in the department to six members, supported by an appropriation, for 1921, of sixteen thousand three hundred dollars.[1]

Interrelation of Offices

From this discussion of the executive department and its several officials and divisions, it is evident that the organization is decentralized and operates on the basis of checks and balances. The unity of action is lost by the executive department being split into the several departments which have a considerable degree of independence of action. Each exercises its own share of the executive power without regard to the activities of the others.

There are, however, some restraints effective in keeping some degree of harmony within the executive group. Since each head of a department depends upon direct popular election for his position and the continuance of it, he feels a responsibility to the people. Dissensions within groups of officials always discredit the party represented; and, knowing this, the officials are eager to maintain at least an outward aspect of harmony and co-operation. The governor, moreover, is the recognized governmental representative of the party, and as such his influence extends to other official groups. Legally, His relation to the subordinate heads of departments is mandatory

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1 Twenty-third Biennial Report of State Superintendent of State Superintendent of Public Instruction, p. 6; Session Laws of 1921, pp. 49-50.

only either through the courts or through legislative enactments. At any time the acts of officials may be reviewed by the courts and the courts may issue restraining or mandatory orders to members of the executive department. In similar manner, the legislative body may interfere with the executive subordinate officials by placing additional duties upon them or by giving their duties to other officials.

CHAPTER VI

STATE BOARDS AND COMMISSIONS

Special Agencies of Administration

When the constitution was made in 1876 it provided for two types of administrative offices: the heads of executive departments[1] and the members of boards and commissions.[2] The first group included the elective; the second, the ex-officio and appointive members. In the first group the governor, lieutenant-governor, the secretary of state, auditor of state, state treasurer, attorney-general, and superintendent of public instruction are listed; and in the second are the ex-officio members of the board of education and the board of equalization, the commissioner of mines, and members of the board of land commissioners, appointed by the governor with the consent of the senate, and the elective members of the board of regents of the state university.

In addition to these constitutional officers, there are more than sixty boards and commissions which have been created by statute.[3] The first session of the general assembly created the state board of agriculture and the state board of health, which the second session sustained by appropriations.[4] From that time to the present, with few exceptions, each session of the general assembly has added to the growing list of boards and commissions.[5]

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1 Constitution of Colorado, Art. IV, Sec. 1.
2 Ibid., Art. IV, 1, 9; V, 15; VIII, 5; XVI, 1.
3 Directory of State and County Officers (1921-1922), pp.3 ff.
4 Session Laws of 1879, pp. 5-8.
5 W. N. Searcy, "The Fourth Department of State Government", Report, Colorado Bar Association, 1914, p. 122.

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[illegible] and Constitutional

[illegible] Liberties of Administration

[illegible] the constitution was made in 1789 it provided the law [illegible] of administrative activity; the limits of [illegible] [illegible] the members of Parliament and councillors.[1] The first years saw [illegible] of the minister; his council, the ex-officio and appointive officers, [illegible] the first years the prefects, directors-general, the secretary [illegible] of state, ministry of state, state councilors, [illegible], and [illegible] of public instruction [illegible] and in the second [illegible] the executive members of the Council of Education and the Council [illegible] commissions, the departmental [illegible], and members of the [illegible] councilors, appointed by the previous [illegible] of the [illegible] the elective members of the Council of [illegible] [illegible] minority.

In addition to these constitutional officers, there was [illegible] [illegible] study and commissions which have been created by activity. The first months of the general assembly created the [illegible] [illegible] and the state Council of Peril, which the [illegible] [illegible] by [illegible].[2] From time to time [illegible], with [illegible], such bodies of the general assembly was called in the [illegible] list of Peril and commissions.[3]

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1. Constitution of [illegible], [illegible], [illegible].
2. [illegible], [illegible], [illegible], [illegible].
3. Ministry of State and Council [illegible] [illegible], [illegible].
4. [illegible] [illegible], [illegible].
5. [illegible], [illegible], "The Single Department of State Government", [illegible], [illegible] [illegible], [illegible].

The practise of creating a new agency to perform some new function of government appears to have grown out of the action of the legislature, which, to lighten the work of the legislators during the short sessions, named special or standing committees to perform some specific duty. It frequently happened that members of committees were brought from the outside, not for the purpose of collecting information but to get something done.[1] Thus it became the practise to name a new board or commission or administrative bureau to assist or govern in detail some division of private or semi-private business or interest. The social and economic changes are reflected in the development of state administrative activities, which, for the most part, have been concerned with the relations of the state to corporations, the struggle of labor and capital, state aid in the development of resources, taxation, the protection of health and morals, and educational, industrial, and philanthropic enterprises.[2]

The incentive for this addition to these administrative agencies has been varied. New laws have been enacted to cope with the problems growing out of exploitation of men and resources in industry; and, as professional and industrial organizations have been perfected, new demands for government regulation have been made. There has been a constantly increasing tendency of state government to undertake functions which formerly were matters of concern to local government only or to no political organization.[3] Probably the creation

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1 J. M. Mathews, Principles of American State Administration (1917), p. 156.

2 Frank H. White, "The Growth and Future of State Boards and Commissions", Political Science Quarterly, Vol. 18, p. 631.

3 Mathews, op. cit., p. 157.

The question of controlling a new concept in politics arose out of the
[illegible] of government expenses in some areas and of the action of the
legislature, which, in light of the work of the legislature during the
[illegible] session, seemed special or stability measures in politics were
[illegible] the. It frequently happened that politics of economics
[illegible] through from the statute, but then the question of allocating to-
[illegible] but to not economic form. Then it became the prevailing
[illegible] been a new board on economics or administrative bureau to carried
[illegible] project in detail some division of politics to semi-private business
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[illegible] resources, transition, the protection of health and morals, and edu-
[illegible], industrial, and philanthropic activities.

The problem for this activity in these administrative quest-
[illegible] has been varied. The time have been spent to study of the
[illegible] problem involving not of evaluation of new and improved in industry;
[illegible], on professional and technical organizations have been verified-
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[illegible] a constantly increasing importance of state government in welfare-
[illegible] decisions which strongly bear relation of economic in local governe-
[illegible] only or in no political accountability. Probably the greatest

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1 [illegible]. Holcomb, Principles of Economics Study, Administration
[illegible], p. [illegible].
2 [illegible] E. Smith, The Democratic Ideas of Harry Truman and
[illegible], Principles Between Government, Pub. 47, p. 6[illegible].
3 Holcomb, op. cit., p. 147.

of many boards and commissions has been founded upon the sound principle that there has been the desire to secure the advantages of specialization in public affairs and the application of skill and knowledge to the regulation of social and industrial conditions. There should not be omitted from consideration the fact that boards and commissions have been created, in many instances, primarily for the purpose of rewarding worthy partisan supporters.[1] On account of the operation of these several causes, the number of state boards and commissions is continually increasing. Although the growth in the number of these special agencies has been most marked in the industrial and commercial centers,[2] Colorado is an exception in having a comparatively large number.

This development in state government represents the general advance toward paternalistic control over the interests of the people of the state. The introduction of the numerous boards and commissions suggests the trend toward state control through legislation relating to business. Many of these official agencies of administration are created for and engaged in the inspection and regulation of industry, or in the transaction of state business pertaining to the property of the state. There are boards for the regulation and licensing of architects, barbers, pharmacists, physicians, nurses, veterinary sur-

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1 Ibid., p. 158.
2 White, op. cit., p. 633.

geons and other trades and professions. There are a bureau of labor statistics, a free employment agency department, and an industrial commission. Besides the state agricultural board, there are separate boards, bureaus, and offices dealing with dairies, the bee industry, forestry, horticulture, entomology and live stock. There exists a department or office for the inspection of factories; another for the inspection and regulation of slaughter houses; and another for the inspection and regulation of food and drugs. There are an extensive bureau for the engineering work and supervision of irrigation, a board for state lands, another for the capitol grounds and buildings; a fish and game commission, and a commission for state highways; separate commissions for the regulation of banks, insurance companies, building and loan associations, and railways; a department of mines, a superintendent of state mineral lands, and a geological office. These and a number of other bureaus and offices deal with business and industry. They are in addition to the several separate boards which have charge of the penal, protective, and educational institutions of the state. Thus it appears that the range of interests which have been brought under the control and supervision of state boards is extensive.

Any classification of state boards and commissions is difficult. Based on the specific powers of the several groups, the following classification aids in a proper conception of their fields of operation: (a) industrial, such as the board of agriculture, and inspectors of mines and factories; (b) scientific, such as the board of health and the bureau of labor statistics; (c) supervisory, such as the public

utilities commission and commissioners of insurance and banking; (d) examing boards for various professions and occupations, as dentistry, medicine, pharmacy, teaching, and civil service; (e) educational boards and the historical and natural history society; (f) executive, such as the highway commission; and (g) corrective and philanthropic, such as the state police force, and the board of charities and correction. This classification, which is made on the basis of the specific powers which may be exercised by the commissioners, has many cases of overlapping. It is difficult to make any systematic arrangement to include the "bewildering variety" of powers and duties imposed upon these many agencies.[1] The powers exercised range from the mandatory orders of the industrial commission, which may compel the submission of all industrial disputes between employer and employee to it for investigation,[2] to the advisory influence of the budget commissioner.[3]

Cost of Maintenance

The support of these agencies of government requires a substantial part of the state funds. Some of the boards or bureaus are maintained at the direct expense of the particular industry or business concerned,[4] and, in several instances, the members serve without

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1 C. A. Beard, Commissions in American Government", McLaughlin and Hart's Cyclopedia of American Government, Vol. I, 351.

2 Session Laws of 1921, Chapter 180, Sec. 29.

3 Session Laws of 1919, Chapter 12.

4 Tabulation by the attorney general shows that the following examining boards are allowed a per diem, to be paid out of fees collected by the boards, for holding examinations and while actually performing their duties: the boards of medical examiners, accountancy, horseshoers' examiners, embalming examiners, optometric examiners, barber examiners, architects, and pharmacy.

pay.[1] When a board is created, its functions tend to increase, its personnel to increase in number and, consequently, its cost to the state to become larger. The general appropriation measures for the years 1901, 1911, and 1921 show increases in expenses of the following boards and commissions which are mentioned as examples: the appropriations for the maintenance of the state board of land commissioners for the three years were, respectively, 11,200 dollars, 30,000 dollars, and 27,600 dollars; for the maintenance of the public utilities commission, no appropriation in 1901, 14,000 dollars, and 41,000 dollars, respectively; and for the game and fish department, 21,500 dollars, 25,200 dollars, and 124,300 dollars, respectively. The total appropriations for this feature of state government in 1921 was 438,000 dollars, approximately. This amount was more than forty-eight per cent. of the total for the executive, legislative, and judicial departments of the state for the two years preceding.[2]

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1 The following boards and commissions receive neither salary nor per diem: the boards of capitol managers, charities and corrections, pardons, health, live stock inspection, immigration, promotion of uniform state laws, trustees of school for deaf and blind, trustees of school of mines, trustees of state normal schools, agriculture, control of industrial workshop for blind, commissioners of sailors' and soldiers' home, control of home for dependent and neglected children, control of industrial school for boys, control of industrial school for girls, control of training school for mental defectives, library commissioners, nurses' examiners, dental examiners, veterinary examiners, and the traveling library commission, and the state highway commission. Eight of these select secretaries, usually from their own number, who receive salary.

2 Ninth Annual Report of Colorado Tax Commission, p. 118.

The increasing costs of this phase of government have attracted attention. In 1913 the legislature authorized the governor, whenever he should find the state funds inadequate to support the many boards and commissions, to suspend from operation any of them.[1] In some few instances appointment of members has not been made.[2]

Powers and Duties

The powers and duties of these boards and commissions are determined by the specific definition of the laws creating them, by the laxity or strictness of the construction of the law, and by the orders given them by subsequent legislation. They often partake of the nature of all three of the governmental departments.[3] The industrial commission, for example, issues regulations prescribing the measures which shall be taken to protect employees in every employment and place of employment, prescribes and enforces orders for the adoption of safety devices, safeguards, and other means of protection "to carry out all laws relative to the protection of life, health, safety and welfare of employees."[4] This appears to constitute the exercise of a legislative power. The administrative authority granted to the commission is so extensive that it is unnecessary for it to bring prosecution to compel compliance with the law or punish violations of it, for the commission may directly enforce an order, which is final unless the party affected appeals from the order to the proper court.[5] To pro-

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1 Session Laws of 1913, p. 249.

2 The Colorado Land Settlement Board is not operating during Governor Shoup's administration.

3 Beard, C. A., Article in Cyclopedia of American Government, I, 350.

4 Session Laws of 1921, Chapter 180, Section 11.

5 Ibid., Chapter 180, Sec. 14.

tect private rights against arbitrary action of the commission, provision is made that any interested person who may be dissatisfied with the finding, order, or award of the commission may appeal to the district court on the ground of the illegality or unreasonableness of the procedure.[1] Any such action has precedence over any civil case of a different nature pending in the court, but appeal cannot be made unless an application for a hearing has been presented to the commission as provided in the act. As a further expression of its so-called judicial authority, the commission may conduct hearings and inquiries in connection with which books and papers reflecting in any way upon the case under consideration shall be made available, testimony of witnesses may be taken, and the labor statistician of the bureau of labor statistics may be called upon to furnish data which may be in the possession of his department.[2] For the most part, however, the powers and duties of these agencies are administrative in character, unrestricted by the technicalities of judicial procedure.

Internal Organization

With respect to internal organization, the state boards and commissions have been granted authority by the legislature to a generous degree. The industrial commission may be cited again for purposes of illustration: with the approval of the governor and subject to the provisions of the civil service laws of the state, the commission is empowered to employ during its pleasure "such deputies, experts,

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1 Ibid., Chapter 180, Sec. 37.
2 Ibid., Chapter 180, Sec. 17 - 21.

statisticians, accountants, actuaries, inspectors, clerks, and other employees as it may deem necessary to carry out the provisions of the law."[1] The commission may also appoint advisers who shall assist the commission in the execution of its duties.through the inspection of any place or any industry which is the subject of an investigation.[2] Further authorization is given the commission to adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities with respect to the methods of proceedings, the conduct of hearings and investigations, and the amending of its rules at its discretion.[3]

Thus it appears that when the members of the commission have received their appointment by the governor and when the appointment has been confirmed by the senate, the conduct of the members can only be questioned by judicial processes; that is, the commission is irresponsible. In general, the conditions prevailing with respect to the industrial commission are common to many other boards and commissions.

It happens, in some instances, that the board or commission appeals for appropriation to the legislature directly, disregarding the usual dependence upon the indirect methods of securing funds. Although reports are made to the governor annually or biennially, they afford little opportunity for restraining supervision, for the power of removal is safeguarded so that it can be done only for the gravest

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1 Ibid., Chapter 180, Sec. 6.
2 Ibid., Chapter 180, Sec. 11,20.
3 Ibid., Chapter 180, Sec. 11.

[illegible]

[illegible]

[illegible]

offense, and through the formality of a public hearing.[1] As a result of the conditions surrounding the offices of members of the boards and commissions, they have been characterized a "fourth department".[2] These "departments" are not responsible to the people directly, for the members, with few exceptions, are not elected by popular vote; they are not responsible to the legislature, for it does not appoint or remove them; and they are not responsible to the governor, for, after making the appointments, he has no control over them.

The great confusion in the administration of state government is due to the creation of these new agencies to administer specific interests as they have needed attention. Little effort has been made apparently to co-ordinate these new offices, and, since no uniform principles have been followed in their construction, the result has been the creation of a system which is "the very apotheosis of chaos and irresponsibility".[3] The administration of any phase of state government through a commission or board is neither economical, efficient, nor responsible. On the contrary, they seem to be extravagant, to lack efficiency and to be responsible to no one. Their creation has taken a part of the executive power from where it logically belongs and transferred it in such a manner as to weaken executive power and authority, while it does not tend to benefit the people. The responsibility for the unfortunate conditions which result from the administration by boards and commissions may be summarized as follows:[4]

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1 State Civil Service Commission, First Biennial Report, 1919-1920, pp. 44 - 45.

2 J. H. Finley and J. F. Sanderson, American Executive and Executive Methods (1907), p. 173.

3 Beard, op. cit., p. 501.

4 Leonard A. Blue, "Tendencies in State Administration", Annals of American Academy of Political Science, Vol. 18, pp. 434 ff.

[illegible] and through the [illegible] of a public [illegible]. In a [illegible] the institution governing the actions of members of the bureau and [illegible], they have been characterized as "[illegible] machinery". These [illegible] were not responsible in the usual [illegible] for the [illegible], with the exception, are not elected by popular [illegible]; they are [illegible] responsible to the legislature. For it has not usually as [illegible] and they are not responsible to the governor. For, after [illegible] the supervisorship, he has no control over them.

The great problem in the administration of state government is due to the creation of these new agencies to administer specific [illegible] as they have arisen [illegible]. Little effort has been made [illegible] to co-ordinate these new [illegible], and, since no uniform [illegible] have been imposed in their construction, the result has been the creation of a [illegible] which is "the very [illegible] of [illegible] irresponsibility". The administration of any [illegible] of state government through a commission is bound to neither economical, efficient [illegible] responsible. In the matter, they prove to be extravagant, in [illegible] efficiency and it is impossible to be [illegible]. This condition is [illegible] by a part of the difficulty which is [illegible] [illegible] of irrelevant it is such a manner as to [illegible] [illegible] [illegible], while it does not tend to benefit the people. The [illegible] responsibility, the unfortunate condition which result from the [illegible] [illegible] by boards and commissions may be summarized as follows:

[illegible] Ohio State Service Commission, Final Biennial Report, 1924-[illegible], pp. [illegible].

[illegible] A. R. Taylor and A. R. Hatchman, Justice Department and [illegible] Public Health, p. 374.

[illegible] Ibid., pp. [illegible], p. 803.

[illegible] Bernard R. Blum, "Tendencies in State Administration", Annals of American Academy of Political Science, 104, 32, pp. 404 ff.

(a) the commissions are composed frequently, in part, of ex-officio members who do not give serious attention to the work of the commission; (b) the meetings are held infrequently on account of the diffibulty of getting members together; (c) the group is frequently unable to agree and consequently the decisions are not promptly reached; (d) the unpaid members are inclined to give little time to their offices, so the services are more or less perfunctory; (e) the members are frequently appointed for political reasons; and (f) the responsibility for action is spread over a group instead of being concentrated on a single individual.

Among the many administrative boards and commissions, there are three which are composed of ex-officio members entirely;[1] while nineteen have some ex-officio members. On the list of unpaid officials there are fifty-four groups. The groups vary in number from three to seventeen,[2] with some boards bi-partisan in nature; for example, the industrial commission may not have more than two of the three members of the same political party.[3] To add to the irresponsibility of the appointing power and of the political party, the appointment of the members of some boards and commissions extends over the terms of three governors, as in the case of the civil service commission which has three members with terms of six years each, but no two offi-

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1 The board of education, the board of equalization, and the auditing board.

2 Of those listed in the Session Laws of 1921, five of the boards and commissions have two members; fifteen, three members; four, four members; fifteen, five members; five, six members; six, seven members; three, nine members; one, eight members; one, ten members; two, twelve members; and one, seventeen members.

3 Session Laws of 1921, Chapter 180, Sec. 5.

cials' terms expire at the same time.[1]

One feature of the diversified administrative system of the state which is especially praiseworthy is the plan of some boards and commissions to have a secretary or executive officer to whom is given the executive work of the body. The state board of health is composed of twelve members, one of whom is the secretary and executive officer for the board, in whose hands much of the administrative work is placed.[2] This plan combines both board and single executive officer in charge of a given function. "The executive officer", suggests Professor Mathews, "should be intrusted with the entire control of administration matters . . . . . .in matters requiring deliberation.. .....the moral support and aid of the board through advice and encouragement . . . . . cannot be wisely dispensed with."[3] According to the degree of freedom with which the executive secretary may act in the performance of the executive duties, the value of the plan is determined.

Survey of State Administration

In 1915 the condition of the business of the state was a matter of concern to the legislature. The agitation of the reform programs in some states and the achievements in others encouraged the Colorado general assembly to consider plans whereby the inefficiency and waste due to the lack of co-operation and proper interrelation of the administrative agencies should be eliminated. It was recognized that

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1 Constitution, Art. XII, Sec. 13.
2 Mills Annotated Statutes, Sec. 437.
3 Op. cit., p. 167.

[illegible] large majority of his own time.[1]

The failure of the democratical administrative system of the [illegible] which is especially predominant in the plan of Jean Jacques and [illegible] suggestions to form a ministry is especially striking in view of the [illegible] revolutionary work of the Jacobins. The whole board of health is wrapped up in twelve members, one of whom is the secretary and exercises [illegible] functions the rest, in order hardly much of the administrative work [illegible] a chance.[2] This plan combines two things not single secretary with [illegible] in charge of a given function. The secretaries-actuary, moreover [illegible] distinct failure. Though he labored with the initial country of [illegible] administration [illegible] . . . . . in matters relative to administration [illegible] the board requires and all of the board directed-active and [illegible] . . . . . member to already [illegible] . . . . . [illegible] the duties of charge with the executive secretary was not [illegible] the [illegible] of the executive duties, the value of the plan is [illegible] [illegible].

Source of State Legislation

In 1818 the problems of the business of the state was a public [illegible] to the legislature. The agitation of the return problem [illegible] some states and the achievements in others [illegible] [illegible] towards to consider alone regarding the institutions and work [illegible] to the lack of co-operation and proper interpretation of the re- [illegible] executive should be established. It was realized that

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1. [illegible], Sec. XIII, Par. 32.
2. [illegible] Constitution, Sec. 227.
3. Ibid., p. 228.

departments had not been added as part of a definite, comprehensive plan of administration. Consequently there were duplication and waste, and frequently they worked "toward varying and sometimes antagonistic ends."[1] It was further recognized that the solution was not in the wholesale abolishment of departments but in their proper consolidation and correlation. The departments which were dealing with related functions should be placed under one head. Accordingly, the legislature provided for a survey of the state government.[2]

The work of the survey committee was interrupted by the constitutionality of the act of the general assembly which provided for the survey being questioned by the attorney general. In order to settle the question, the act was twice carried to the supreme court of the state and once through the district court. Finally the act was declared constitutional, after a considerable part of the appropriation for the expense of the survey had been dissipated through litigation and three-fourths of the time available for the work had been lost.[3] The work which the survey committee proposed to do was not completed, for the succeeding session of the general assembly failed to continue the appropriation for its support. The work of the survey relating to the executive branch of the state government suggested the consolidation of some divisions of the executive department and the creation of some new departments or divisions.[4] The changes proposed for in-

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1 Governor's Biennial Address, Twenty-first General Assembly, House Journal, pp. 32 ff.
2 Session Laws of 1915, pp. 459 ff.
3 Survey Committee of State Affairs, Report No. XVIII, p. 9.
4 Ibid., pp. 11 ff.

corporation into the state government would still have left a large number of divisions or departments. Besides the elective executive offices, the committee arranged for sixteen separate agencies to perform the administrative and executive functions of a state with less than a million people.

Although the report of the committee was made after insufficient time for study and investigation, it indicated that there is opportunity to establish correlation and co-operation in the work of the several offices, boards, and commissions. The proposed concentration of authority and the consolidation of the administrative agencies of the state government left much to be desired. The work of the committee, only partially completed, directed the attention of the public, however, to the conditions which existed at that time and still continue to exist. The affairs of the state government are in a condition of chaos. The statement of an economy and efficiency committee of another state well describes the executive and administrative features of the government of Colorado:

> As the result of the absence of any systematic organization of related services, there is no effective supervision and control over the various state offices, boards, and commissions . . . . . The very number of separate offices makes impossible the exercise of any adequate control. To a very large extent each authority is left to determine its own action; conflict of authority between two or more offices is often possible; and if harmony and co-operation is secured it is by voluntary compromise rather than by the advice and decision of a superior authority. Under the present arrangements too many independent authorities have power to make expenditures subject to no effective centralized control or responsibility. This situation naturally leads to waste and extravagances.[1]

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1 Illinois Efficiency and Economy Commission, quoted in Mathews, American State Administration, p. 170.

[illegible]

[illegible] the state government would still have [illegible] a large number of activities of local benefit. Besides the elective executive officers, the constitution provides for various employees [illegible] to conduct the administrative and executive functions of a state with [illegible] a million people.

Although the report of the committee was made after investigation [illegible] for study and investigation, it indicates that there is important [illegible] to establish centralized and responsible in the work of the several [illegible], boards, and commissions. The improved [illegible] of [illegible] and the responsibility of the administrative agencies of the [illegible] government ought to be desired. The work of the committee, [illegible] publicity emphasized, directed the attention of the public, however, to the conditions which existed at that time and still existing, [illegible] extent. The efficiency of the state government was in a condition of [illegible]. The statement of an economy and efficiency commission of [illegible] state with duties for executive and administrative departments [illegible] the government of Delaware:

In the length of the attempt of our American democracy to [illegible] political problems, there is no criterion accurate and efficient enough [illegible] public welfare, health, safety, and convenience. The very [illegible] of popular control lacks immediate the activities of any agency [illegible] service. In a very large sense, all activities be left to [illegible] the ballot, results of industrial betterment can be seen [illegible] in the working, results of industrial betterment can be seen [illegible] in business [illegible] and it depends and administration in business [illegible] is by voluntary organization under the direction and instigation [illegible] a popular majority. Under the general conditions for [illegible] independent activities have power to make administrative officers [illegible] responsible certain or responsibility. This encourages [illegible] public boards to work and experiments.

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1. Illinois Efficiency and Economy Commission, quoted in Delaware [illegible] Code Commission, p. 121.

Legislative Reform Proposed

The possibility of improving the condition of state government was considered by the last general assembly.[1] It was proposed to create a board of control, composed of the governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney general, and superintendent of public instruction. Upon this board all the administrative and executive rights, powers, and duties of state government should be conferred, except such as are conferred by the constitution upon other officers. The board of control should exercise and administer these rights, powers, and duties through ten administrative departments, as follows:

Central executive department

Governor of the state, director.
Superintendent of budget.
Game and fish warden.
Commissioner of Immigration.
Superintendent of pardons and paroles.
Public utilities commission
Commissioner of insurance.
Superintendent of banks and building and loan associations.

Registration and supply department

Secretary of state, director.
Deputy secretary of state.
Superintendent of registration.
Corporation registrar
Superintendent of printing.
Superintendent of purchase and supply
Custodian of public buildings.
Superintendent of motor vehicles.

Finance department.

State treasurer, director.
Deputy state treasurer.

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1 Twenty-third General Assembly, House Bill No. 149.

Legislative Action Required

The possibility of improving the administration of state government has prompted by the last General Assembly.[1] It was proposed to create a board of control, composed of the governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney general, and superintendent of public instruction. Upon this board all the administrative and executive rights, powers, and duties of state government would be conferred, except such as are exercised by the legislative and other officers. The board of control should exercise and delegate from rights, powers, and duties therein the administrative departments, as follows:

Board controls departments

- Department of the state, director.
- Department of health.
- Game and fish department.
- Department of industries.
- Department of banks and banking.
- Public utilities commission.
- Department of insurance.
- Superintendent of banks and building and loan commissioner.

Legislative and civil departments

- Department of state, director.
- Public examiner of state.
- Department of motor vehicles.
- Corporation department.
- Department of revenue.
- Department of agriculture.
- Department of mines and mining.
- Department of employment and welfare.
- Department of public buildings.
- Superintendent of motor vehicles.

Elected officers:

- State treasurer, director.
- Secretary state insurance.

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1. Twenty-sixth Nevada Assembly, Journal 1913 Pp. 340.

Revenue investigator and oil inspector.
Tax commission.

Accountancy department

State auditor.
Deputy state auditor
Public examiner.
Superintendent of department reports.

Legal department.

Attorney general, director.
Deputy attorney general
Inheritance tax appraiser.
Two deputy inheritance tax-appraisers.
Two inheritance tax investigators.

Educational department.

Superintendent of public instruction, director.
Deputy superintendent of public instruction.
Assistant state librarian.
Teacher of adult blind.
Secretary to teacher of adult blind.

Department of industry and commerce.

Lieutenant-governor (or appointive officer), director.
State entomologist.
Inspector of commission merchants.
State dairy commissioner.
Deputy state dairy commissioner.
State engineer.
State vetrinary surgeon.
Commissioner of mines.
State geologist.
Chief inspector of coal mines.
Coal mining engineer
Inspector of ore buyers.
Miners' examining board.
State board of stock inspection.

Department of labor.

Director appointed by governor.
Chief factory inspector.
Chief boiler inspector.

Department industries and all industries.
The commission.

Commissioner Department

Price control.
Market price control
Public commission.
Superintendent of department projects.

Legal department.

Criminal counsel. Director.
Legal criminal cases.
Commissioner tax appeals.
The legal advisory for industries.
The industrial for investigation.

Education department.

Superintendent of public instruction. Director.
Public supervisor of public instruction.
Military drill director.
Teacher of adult trade.
Secretary to teacher of adult trade.

Department of industry and commerce.

Industrial-commercial information officer. Director.
State statistician.
Licensing of manufacture accounts.
State dairy commissioner.
Public dairy commissioner.
State engineer.
State registrar.
Commissioner of mines.
State geologist.
Chief inspector of coal mines.
Coal mining engineer
Inspector of mine boards.
Mining engineering board.
State board of mining inspection.

Department of labor.

Director, regulation of employment.
Chief factory inspector.
Chief boiler inspector.

Superintendent and assistant superintendents of state free employment offices.

Department of public works and buildings.

Chief officer of highway commission.
Supervising engineer and architect of construction.

Department of public health and welfare.

Director appointed by governor.
Commissioner of health and vital statistics.
Superintendent of foods and drugs.
Superintendent of child and animal protection.
Public health council.
Superintendent of tuberculosis and child hygiene.
Superintendent of venereal disease.
Superintendent of charities and correction
Warden of penitentiary
Warden of state reformatory.
Superintendents of other penal and charitable state institutions.
Commission on prison labor.

The measure further provided that in all departments in which the directors were to be elective officers under the constitution, all appointments of subordinate officers and employees should be made by the directors; in those departments in which the directors were to be appointed by the governor, the secondary members should be selected by the directors with the advice and subject to the approval of a majority of the board of control. The responsibility in all cases should be to the appointing power. The board of control, however, was to be given the power to prescribe regulations for the government of the several departments, the conduct of employees, and the performance of the work of the departments. It was through the board of control

that a degree of centralization was planned.

The proposed wholesale abolition of boards, commissions, and offices created such an opposition that the bill was not strongly supported, and was not passed by the house in which it was introduced. The general assembly later proposed that there should be submitted to the electors of the state, at the general election, for their approval or rejection, the proposal to hold a constitutional convention to revise, alter and amend the present constitution.[1]

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1 Session Laws of 1921, pp. 852-3 (Senate Concurrent Resolution, No. 3).

CHAPTER VII

THE ENFORCEMENT OF LAW

The Problem of Law Enforcement

A test of the efficiency of state government is the respect for law and the maintenance of order within the boundaries of the state. The problem of law enforcement becomes increasingly difficult on account of the number of laws which are added to the statutes each session of the legislature.[1] The conditions within the state and the demands of the people that there shall be a large measure of governmental control call for the enactment of new legislation to meet the situation. Each new function which is assumed by the state renders the task of law enforcement the more difficult, according to the importance and the scope of the measure.

Although the laws in a democratic form of government should express the popular will, it is impossible that, in a state of such wide extent of territory, of such diverse population, and of such varied interests, the laws should be acceptable to all classes, or to all communities. The measures may be rushed through the legislature by methods or by forces the use of which the people resent; or the interests of a portion of the state may not be the interests of the state as a whole. For many reasons a law may not have the approval of the

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1 At the 1921 session of the general assembly, 265 new laws were enacted. Approximately the same number has been added in each session for a long period.

CHAPTER VII:

THE SUPERSCRIPT OF LAW

The Problem of Law Enforcement

A part of the efficiency of state government is the support the law and the maintenance of order within the boundaries of the state. The problem of law enforcement involves innumerable difficulties as evidenced by the number of laws which are added to the statutes each year. The problem of the lawlessness. The constitutions which the state and the demands of the people that there shall be a large measure of governmental machinery for the enactment of any legislation to meet the situation. Such any function which is assumed by the state involves the cost of law enforcement the very difficult. Responsible to the importance of the cause of the government.

Although the laws in a democratic form of government should express the popular will, it is impossible that, in a state of any size, a system of representation, of some direct popularity, and of most varied interests, the laws should be acceptable to all classes, or be all equally beneficial. The minorities may be granted through the legislature by majorities or by forces the law of which the people demand or the interests of a portion of the state may not be the interests of the state as a whole. For many reasons a law may not have the approval of the

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1. By the 1921 session of the general assembly, 180 new laws were enacted. Approximately the same number has been added in each session for a long period.

people of a particular community, or of a special class in a community; consequently, it is persistently violated. This attitude toward law is well demonstrated by the reception, in parts of the state, of the prohibition law of 1916. In some sections the people did not support the measure when it was put to a vote; and, when its enforcement was attempted, such hostility was shown that the local authorities were helpless in their attempts to enforce the measure. With the establishment of the state department of safety, however, recognition of the law has been generally compelled.[1]

Colorado Rangers

Although the constitution and statute law had provided elective and appointive officials whose main services were the bringing of offenders against the law to justice, the state legislature provided in 1917 for an additional agency to maintain law and order, to repress crime, and to preserve the peace within the state. The ordinary police forces, sheriffs, prosecuting attorneys, justices of the peace, and constables were considered an inadequate force to administer state law, so a department of safety was created.[2] Under the direction of the governor of the state and a superintendent of safety, the department was to be organized, with powers as follows: (a) to make arrests anywhere in the state, (b) to suppress all riots and disturbances tending to disregard of the law, (c) to serve criminal processes issued by any court, (d) to exercise the powers of foresters and gamewardens,

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1 J. Gunter, Biennial Message to Twenty-second General Assembly, p. 15 ff.

2 Session Laws of 1917 (extra session), pp. 27 ff.

[illegible]

[illegible] of a particular community, or of a special class in a commun-
[illegible] economically. It is generally visible. This attitude toward
[illegible] law is well demonstrated by the complaint, in parts of the state, of
[illegible] prohibition law of 1920. In some sections the people did not
[illegible]port the measure when it was put to a vote; and, when its enforce-
[illegible]ment was attempted, much hostility was shown. But the local authori-
[illegible]ties were helpless to take strenuous to enforce the measure. Even
[illegible] the administration of the state department of justice, however, evaluat-
[illegible]ion of the law has been generally successful.[2]

Criminal Courts

Although the constitution and statutes has had provided elaborate
[illegible] supervisory officials whose main services were the bringing of
[illegible]ffenders against the law to justice, the state legislatures provided
[illegible] little for an additional county to maintain law and order, to suppress
[illegible]crime, and to preserve the peace within the county. The sheriffs pro-
[illegible]vided forces, sleuths, prosecuting attorneys, jurisdiction of the crime.
[illegible] municipalities were accustomed to handpicking force to administer crime
[illegible]ter, or a department of safety was created.[3] Today the direction of
[illegible] a governor of the state and a department of safety. The department
[illegible] was to be organized, with powers as follows: (1) to make arrests
[illegible]wherever in the state, (2) to enforce all state and disorderness
[illegible]ation in discovery of the law, (3) to serve criminal processes issued
[illegible] any court, (4) to exercise the powers of constables and peacemakers.

[illegible] 1. Charles, Jennetta Barrows in Twenty-second Annual Report
[illegible] p. 12 ff.

2 Jenkins Laws of Ohio Laws annotated, pp. 27 ff.

(e) to co-operate with local authorities in preserving law and order, and (f) to command and direct, in time of necessity, the assistance of the sheriff of a county, the policemen of a town or city, any peace officer, and every able-bodied man.[1] This organization was created for the purpose of serving the state in any emergency arising as a result of the United States being at war with the Imperial German Government; and it was provided that within ninety days after the close of the war all companies formed under the act should be disbanded.[2]

The services performed by these companies formed under the department of safety, called State Constabulary, were recognized as being so valuable that the organization was revived in 1921 by a legislative act which created the Colorado Rangers.[3] Under the direction of the governor, the adjutant general was made superintendent of the department of safety. After making provision for the establishment of headquarters at convenient and desirable points in the state, the superintendent was directed to select and appoint a troop of rangers which should consist of one captain, one lieutenant, one first sergeant, four sergeants, four corporals, and thirty-nine rangers. For the purpose of equipping the troop, the superintendent was further authorized to use the military equipment of the state.[4] The necessary expenses of the organization were provided for by an appropriation for the two-year period of two hundred ninety thousand dollars.[5]

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1 Ibid., pp. 32 - 33.
2 Ibid., p. 28.
3 O. H. Shoup, Biennial Message to Twenty-third General Assembly, p. 4; Session Laws of 1921, pp. 252 ff.
4 Ibid., pp. 253 - 254.
5 Ibid., p. 257.

The duty of the superintendent is defined by the law which created the rangers. He is required to establish headquarters for them at points where he deems advisable to locate one or more rangers. The distribution of the small force is to be made in such a manner that it will be most effective in carrying out the purposes of the act to prevent crime and disorder, and to preserve peace.[1] The aims and purposes of this state police organization were set forth in a letter of the governor to the superintendent at the time the force became available:

> It has been my purpose to make of the Rangers a "standing army" to be used only in the event of major outbreaks against the peace of the state. That may be their principal value but I believe that through wise co-operation with county officials, you will be able to find an important sphere of usefulness for the force in the enforcement of ordinary laws of the land.
>
> The new highway traffic law will require some patrolling of roads and it appears that the rangers are well qualified for this duty. The suppression of automobile thefts calls for the use of officers whose authority is not limited by county lines and there again you can be of inestimable aid to the civil authorities.[2]

The position of the rangers in the state, with respect to the other officials, especially the local officials, is stated by the governor in his correspondence with district attorneys, sheriffs, chiefs of police, and other peace officers. He sought the acceptance of and co-operation with the state police force, by the local officials, in a letter addressed to them shortly before the law became effective. The letter read in part as follows:

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1 Ibid., p. 254.

2 See article "Colorado Rangers", The State Trooper (Detroit, Mich.), June, 1921.

The duty of the government is defined by the law which
[illegible] the subjects. It is proposed to establish headquarters for
[illegible] at public sites in Cape Colonies to begin one of such organs.
[illegible] distribution of its world force to be so made to work a manner
[illegible] it will be most effective in keeping out the presence of the
[illegible] to prevent crime and disorder, and to preserve peace. The time
[illegible] response of this crime police organization were not such as a be-
[illegible] of the problem by the organization of the time the force be-
[illegible] available.

It has been my pleasure to make it the duties a "citizens
[illegible] to be seen only in the event of major matrimonial problems
[illegible] of the state. That may be which [illegible] and I believe
[illegible] through mere cooperation with security officials, you will be
[illegible] in this to [illegible] efforts of qualifications for the force in the
[illegible] of security laws of the land.

The new Library Service has still [illegible] policy of
[illegible] and is assured that the property has not [illegible] for this
[illegible]. The appropriation of [illegible] Service within the [illegible] of
[illegible] [illegible] is not limited by [illegible] [illegible]
[illegible] [illegible] to be of [illegible] [illegible] to the civil [illegible].

The position of the [illegible] in the [illegible], will [illegible] to the
[illegible] officials, especially the [illegible] officials, [illegible] by the
[illegible] in his [illegible] with [illegible] [illegible], [illegible],
[illegible] of police, and other [illegible] officers. By [illegible] the [illegible]
[illegible] and [illegible] with the [illegible] police force, by the [illegible] [illegible]
[illegible], is a [illegible] [illegible] to [illegible] [illegible] [illegible] the [illegible]
[illegible]. The [illegible] [illegible] is [illegible] [illegible]

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1. [illegible], p. [illegible].
2. See [illegible] "[illegible] Service", [illegible] [illegible] [illegible] (Cairo),
[illegible] 1, [illegible] 1921.

It has never been my purpose that the Rangers should interfere, unasked, in the affairs of the county, although, under the law, they have the fullest authority to act. But I should greatly appreciate it if, as occasion arises, you utilize the Rangers stationed nearest you in any manner for the suppression of crime and the enforcement of law. I want to see an active and sympathetic co-operation established between the state police and the county authorities .....[1]

The functions of the organization include the detection of crime and the apprehension of criminals over the entire state in both the rural and municipal communities.[2] The failures in the enforcement of laws locally by the district officials, due to special interests and to sentiment, are not experienced to the same degree in the case of the state officials, who are not dependent upon local elections to retain their offices. On the other hand, the rural districts are in need of more protection than usually is afforded them by the county officials. To know that there is a detachment of the rangers within calling distance gives an additional feeling of security to the residents of the remote community and the isolated ranch.

The organization of the rangers is a form of centralization in administration. The principle of home rule for cities tends to discourage interference in the more largely populated centers but in the rural sections the desirability of autonomy in local affairs is not as strongly recognized. In the rural communites the local policing is not as affective as in the cities, so the enforcement of law is greatly facilitated by a state police force.

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1 Ibid., p. 15.
2 Ibid., p. 31.

[illegible]

[illegible]

[illegible]

The National Guard

The Constitution of the United States gave to Congress a large measure of control over the militia, for it authorizes that body "To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States."[1] Until 1916, the militia remained in the control of the states, except that, in case of the invasion of the United States, rebellion against the government of the United States, or inability of the president to execute the laws with the other forces at his command, the president was authorized to call forth for a specified period such numbers of the militia of the states as he deemed necessary.[2] When the agitation for "preparedness" was at its height, congress provided for the federalization of the militia.[3] This act gave the president additional power. In addition to the use of the national guard, according to his judgment, within the territory of the United States, he may be authorized by Congress to draft all members of the national guard into the military service.

The militia of the United States consists of "all the able-bodied male citizens of the United States and all other able-bodied males who have declared their intention to become citizens," who are between the ages of eighteen and forty-five years. The militia is divided into three classes, the national guard, the naval militia,

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1 Constitution of United States, Art. I, Sec. 8.
2 National Guard Regulations (1919), pp. 6 - 7.
3 National Defense Act of 1916, Sec. 60 ff.

The National Guard

The Constitution of the United States gives to Congress a large measure of control over the militia, for it authorizes that body "to provide for calling forth, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States."[1] Until 1903, the militia mentioned in the second of the clauses, usually said, is also in the possession of the States, subject only to the obligation of the States to maintain the militia at the disposition of the President, whenever the President wishes to call forth the militia for the purposes of the Union with the other forces of the command, the commander and subordinates in call forth the militia, and the militia of the militia of the States on the demand of Congress.[2] When the militia for "particularized" was of its right, Congress invested the President with the authority of the militia.

It was just the creation of additional power. In addition to the use of the national guard, according to the judgment, either the Congress of the United States, he may be authorized by Congress to draft all members of the national guard into its military service.

The militia of the United States consisting of "all the able-bodied male citizens of the United States and all male persons of the age of the United States and of the age of eighteen and forty-five years." The militia is divided into three classes, the organized, the general militia.

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1. Constitution of United States, Art. I, Sec. 8.
2. National Guard Association (1918), pp. 6 - 7.
3. National Defense Act of 1916, Sec. 60 ff.

and the unorganized militia.[1]

The organized militia of Colorado, for legal reasons, is still called the state militia. It is generally known, however, by the federal term, national guard. It consists of the regularly enlisted militia between the ages of eighteen and forty-five years, organized, armed, and equipped as provided by law, and the commissioned officers between the ages of twenty-one and sixty-four years. The state is prohibited from maintaining other troops in time of peace, except a state police or constabulary.[2]

The state is authorized to enlist men in the national guard in the proportion of eight hundred for each senator and representative in congress from the state.[3] The period of enlistment is six years, the first three of which are in an active organization and the remaining three in the national guard reserve, unless the person serving desires to remain in the active service. The qualifications for enlistment are the same as those prescribed for admission to the regular army.[4] The pay of the enlisted men on the active list belonging to an organization of the national guard is twenty-five per cent. of that for enlisted men of corresponding grades of the regular army. When they are called into service, however, the pay is the same as in the regular military service.[5]

The general expenses of the equipment and the maintenance of the national guard are met by appropriations by congress to be paid out of

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1 Ibid., Sec. 57.
2 Ibid., Sec. 61.
3 Ibid., Sec. 62.
4 Ibid., Sec. 69.
5 Ibid., Sec. 110.

[illegible] the recuperative utility.[1]

The suggested utility of Tokugawa, the Sword Protector, is still [illegible] for state utility. It is generally known, however, by the [illegible] term, reformed yuwa. It summons of the regulatory utility [illegible] utility between the aims of eighteen and thirty-five years, stipulated, [illegible], and supplied as principle by Sun, and the mechanistic [illegible] between the ages of twenty-one and ninety-four years. The [illegible] is [illegible] then maintaining either through [illegible] of peace [illegible] a state [illegible] or mechanistic.[2]

The state is anti-related to which was in the national point [illegible] the perspective of eight [illegible] that war, warrior and [illegible] [illegible] from the trade. The period of enlightenment is the period. [illegible] Final times of which was in an active [illegible] and the [illegible] [illegible] turns in the national court reserve, makes the power serving [illegible] [illegible] to remain in the active service. The qualifications for military [illegible] are the same as those prescribed for admission to the regular army, [illegible] the pay of the soldiers and to the order that belonging to an [illegible] [illegible] of the military would in twenty-five per cent. of that the military [illegible] of correspondent ranks of the regular army. Then they are [illegible] [illegible] active service, however, the rest is the same as in the regular [illegible] [illegible] service.[3]

The general expenses of the equipment and the maintenance of the [illegible] would not be by appropriations by another in the part and of

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1 [illegible], Ibn. 47.
2 [illegible], Ibn. 81.
3 [illegible], Ibn. 60.
4 [illegible], Ibn. 63.
5 [illegible], Ibn. 136.

funds in the federal treasury. These expenses include funds for providing arms, ordnance stores, quartermaster stores, and camp equipage.[1] The uniforms, arms, and equipment are the same type as those which are provided for the regular army.[2]

At places which are to be determined by the state authority, units and headquarters of the national guard are located. When a unit has been organized and recognized by the war department, there the state may erect an armory.[3] From the national defense fund, five hundred thousand dollars was appropriated by the general assembly for the purchase of sites and the erection of armories.[4] Public interest is enlisted in these by calling them memorials to the soldiers of the community, who served in the recent war. As an inducement to the military authority to locate the armory in a community, enterprising citizens, through popular subscriptions, are expected to donate the site.[5]

Each unit of the national guard, whenever it is recognized by the war department of the federal government, becomes a body subject to the rules and regulations which govern the army of the United States. It is subject also to the military law of the state and the orders of the governor, who is the commander-in-chief, except when it is called into the service of the United States. In no case, however, may the control by the state conflict with rules and regulations of the war department.[6] In conformity with the regulations of the war department,

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1 Ibid., Sec. 67.
2 Ibid., Sec. 82.
3 Session Laws of 1921, p. 27.
4 Session Laws of 1921, p. 27.
5 Sixteen armories are to be erected in the state according to plans of the department of safety.
6 Session Laws of 1921, pp. 634 ff.

[illegible] in the United Kingdom. These expenses include funds for jur[illegible] utility rates, railroad wharfs, warehouses-elevators, and some employees. The criterion, area, and efficiency are the same krge as those which are applied to the regular army.

It cannot or can not be determined by the state authorities, [illegible] the instrumentes of the national guard are limited. Thus a well [illegible] has been organized and equipped by the War Department, then the state [illegible] to arm[illegible]. Thus the national defense fund, like [illegible] [illegible] dollars can be appropriated by the congress annually for the pur[illegible] of aiding and the equipping of companies. Public interest is e[illegible] [illegible] to state by making this assistance to the militiaes of the two [illegible], was served by the recent war. In an indictment to the mili[illegible] authority to invite the issuance is a necessity, substituting mili[illegible] [illegible] equipped to defend the state.

Such much of the national guard, however, it is recognized by the War Department of the federal government, however a body subject to the rules and regulations which govern the army of the United States. It is subject also to the military law of the states and the orders of the governor, and in the commander-in-chief, except when it is called into the service of the United States. In no case, however, and the [illegible] by the state authorities with rules and regulations of the War Department. It is consistent with the regulations of the War Department.

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1. Ibid., Sec. 67.
2. Ibid., Sec. 68.
3. Revision Laws of 1901, p. 87.
4. Revision Laws of 1901, p. 87.
5. Military expenses are to be assessed in the state according to [illegible] of the Secretary of Navy.
6. Revision Laws of 1901, p. 104-85.

the local agencies of control have power to function.

At the head of the military organization of the state is the governor, who has the appointment of the adjutant general and all field and staff officers. These appointments, as well as all other acts concerning the national guard, must be made in accord with the federal regulations. To assist the governor, a military board is provided. The governor is an ex officio member. The other members of the military board are the adjutant general, the quartermaster, the judge advocate, and an active military officer.[1] This board exercises general supervision over the military department of the state, and, in this supervisory capacity, prescribes rules and regulations to increase the efficiency of the national guard. All regulations are made by the board and, when approved by the governor, are published in orders. The principal duty of the board is to direct the expenditures of money provided for military purposes. All requisitions made for purchases in excess of five hundred dollars must be approved in advance of the purchases. Likewise all bills and payrolls must be approved before they are submitted to the quartermaster for payment. In emergency the governor may authorize the quartermaster to draw upon the military fund for certain sums without the action of the board.[2]

The training of the national guard is determined by federal law.[3] Each unit is required to assemble for drill and instruction not less

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1 Ibid., p. 633.
2 Ibid., p. 633.
3 National Defense Act of 1916, Sec. 92 ff.

the local committee of vocational training in Shanghai.

At the head of the military organization of the state is the President, who has the supervision of the military forces and all field and staff officers. These commissaries, as well as all other corps, exercise the military power, must be made to correspond with the Emperor's instructions. To assist his majesty, a military board is provided. The president is an civilian member. The other members of the military board are the minister of war, the minister of marine, the inspector-in-chief, and an active military officer. This board supervises general organization and the military improvement of the state, and, in this capacity especially, prepares rules and regulations on increasing the efficiency of the national guard. All regulations are made by the military board, when approved by the President, are published to others. The principal duty of the board is to direct the importation of money and material for military purposes. All regulations with the provinces or masses of these imperial military must be approved in advance of the promulgation. Literature and public work is approved before they are published to the provincial for approval. In addition to the military forces the military board also supervises the importation of arms and munitions. The importation is done upon the military board with the action of the board.

The training of the national guard is determined by Imperial Edict. Each unit is required to assemble for drill and instruction and have

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1 Ibid., p. [illegible].
2 Ibid., p. [illegible].
3 [illegible] Imperial Decree [illegible] of [illegible], Ch. 20 ff.

than forty-eight times each year. In addition to this regular training, it is required to participate in encampments or other exercises at least fifteen days each year. The unit may be excused from the latter exercises by the secretary of war.[1]

The arrangements for the camps for the instruction of officers and enlisted men of the national guard are left by the president to the secretary of war. Since the camps are conducted by regular army officers, three are detailed by the secretary of war for the purpose. The locations of the camps also are left to his discretion. The officers and enlisted men attending the camps are entitled to pay, transportation, and subsistence, at the same rate as men in the regular army.[2] The dependents of enlisted men of the national guard, while on active duty in the state of Colorado, are provided for by allowances from the military fund.[3]

The function of the national guard within the state is "to prevent violations of the laws of the state, to prevent and suppress riot and insurrection, and to repel or prevent invasion."[4] These services may be required by order of the governor, or, in case the emergency is great and time will not permit communication with the governor, the commanding officer of any portion of the national guard at the scene of

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1 Ibid., Sec. 92.

2 Ibid., Sec. 97.

3 The state law of 1919 provides for the wife thirty dollars, for one child fifteen dollars, for two children twenty-five dollars, for each additional child ten dollars, and for dependent parents, grandchildren, brother, or sister, if there be no wife or children, from ten to forty-five dollars a month.

4 Laws and Code of Regulations for the Government of the Colorado National Guard, p. 17.

trouble may assemble his command to give aid to the civil authorities, after notifying the governor in the most speedy manner possible. On the other hand, the mayor of a town or city or the sheriff of a county may call the commanding officer of any portion of the national guard within the limits of his jurisdiction to aid the civil authority to suppress violence and enforce the law.[1]

The further relations between the military and the civil authorities of the state are indicated by the obligations imposed by the legislature upon the judicial and executive officials. The justices of the peace are empowered to issue warrants, to hear, try, and determine prosecutions under the laws regulating the national guard; and, when fines have been imposed upon offenders, it becomes the duty of the constable to make the collection or jail the offender.[2] The military courts are authorized to consign prisoners to the county jail for confinement for less than one year and to the state penitentiary when the imprisonment is for a period longer than one year.[3] The civil authority may not interfere, however, by any civil process, with a person who is attending to military duties;[4] but a warrant or other process, issued by the commander-in-chief, by the adjutant-general, or by their order, must be served by the sheriff of a county or by any peace officer of the state.[5]

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1 Ibid., p. 18.
2 Ibid., p. 23.
3 Ibid., pp. 21 - 22.
4 Ibid., p. 20.
5 Session Laws of 1921, p. 636.

[illegible] may assemble its members to give aid to the civil authorities, either multiplying the manpower in the most varied manner possible. In this minor sense, the source of a town or city or the sheriff of a county may call the nonmilitary military of any portion of the national guard within the limits of his jurisdiction to aid the civil authority in suppressing violence and enforcing the law.[2]

The further relations between the military and the civil authorities of the state are indicated by the obligations imposed by the legislatures upon the judicial and executive officials. The jurisdiction of the courts are supposed to cover contracts, to tort, and torturing transactions which are less requisite for military and, when [illegible] have been imposed upon attorneys. It becomes the duty of the nonmilitary to make the enlistments or call the attorney. The military courts are authorized to provide witnesses in the county jail for conviction for laws that are [illegible] to be the civil jurisdiction when the imprisonment is for a period longer than one year. The civil authority may use military, however, by any civil process, with a person who is activated to military duties; but a request or order provided for the enforcement of relief, by the administrative, or by their orders, which is equal to the sheriff of a county or to any peace officer of the state.[3]

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2 Ibid., p. 32.
3 Ibid., p. 32.
4 Ibid., pp. 22 - 23.
5 Ibid., p. 23.
6 Revised Code of Ohio, p. 2.

Financing the Program

The financing of the military program which is provided for the state is by the federal and by the state governments. The amount expended by the federal government is determined largely by the activities of the national guard.[1] The amount expended by the state is derived mainly from the national defense fund.

In 1917, as a part of the war program, the general assembly authorized the governor, the secretary of state, and the treasurer to issue bonds to the amount of two million five hundred thousand dollars, or so much as might be necessary, to pay the expenses incurred in assisting the United States in the war with the German government and in providing a guard or force to maintain order in the state.[2] The state officials designated by the general assembly to have charge of the issuance of the bonds were given power to issue and sell them, at any time funds were needed for the purposes stated. Provision was made that the bonds should call for interest at four and one-half per cent., to be paid by the levy of a tax upon the property of the state. The principal should be paid out of a sinking fund to be raised by general tax, beginning in 1921.[3]

At the regular session of the legislature in 1921, the authority to issue bonds for the purpose of financing the national guard, under similar conditions, was extended to the same group of state officials.[4]

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1 Estimated by the adjutant general at seven hundred fifty-thousand dollars annually.
2 Session Laws of 1917 (extra session), p. 16.
3 Ibid., pp. 17 - 19.
4 Session Laws of 1921, pp. 621 - 622.

Financing the Program

The financing of the military program which is provided for the
[illegible] is by the federal and by the state governments. The central gov-
[illegible]ment by the federal government is financed largely by the nation-
[illegible]lies of the National guard.[1] The labor supported by the state is de-
[illegible]rived mostly from the national budget.

In 1927, as a part of the war program, the general assembly
[illegible]ed the governor, the president of which, [illegible] [illegible]
[illegible] begin to the needs of the military [illegible] [illegible]
[illegible] as such as might be necessary, to put the economic [illegible] in [illegible]
[illegible] the federal budget to cope with the Russian government and in [illegible]
[illegible]ding a [illegible] in order to maintain order in the state.[2] The state
[illegible]ficiaries directly to the general assembly to take charge of the
[illegible] of the troops were [illegible] power to [illegible] [illegible] at any
[illegible] the state would [illegible] the [illegible] [illegible]. [illegible] [illegible]
[illegible] the troops should act the [illegible] at [illegible] and [illegible] [illegible]
[illegible] to put in the [illegible] of a [illegible] the [illegible] of the state. The
[illegible] [illegible] be paid out of a [illegible] [illegible] to be raised by general
[illegible] including it [illegible].

In the regular session of the legislature in 1927, the [illegible]
[illegible] the [illegible] of financing the National guard, [illegible]
[illegible] appropriations, was [illegible] in the [illegible] of state officials.

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1. Contained in the [illegible] report is [illegible] [illegible]
[illegible] [illegible]
2. [illegible] [illegible] [illegible], p. 12.
3. [illegible], pp. 17 - 18.
4. [illegible] [illegible], pp. [illegible] & [illegible].

The sinking fund to meet the obligations incurred by the issuance of bonds was partially provided by a tax on both domestic and foreign corporations. It authorized an annual tax of ten dollars on each corporation having a capitalization of one hundred thousand dollars, and ten cents on each additional thousand dollars or fractional part of a thousand.[1]

With this liberal plan provided to finance an undertaking which soon was accomplished, the state legislature has extended the uses to which the fund may be applied; and the cost of the construction of the armories, the funds to support the Colorado rangers, and the amount necessary to maintain the national guard, with the allowances to dependents of men enlisted in the national guard, are to be derived from this national defense fund.[2]

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1 Session Laws of 1917 (Extra) pp. 22 - 25.

2 Of the total amount of national defense bonds of two and a half million dollars authorized by the legislature in 1917, there has been issued a total of $1,882,500; and $750,000 of these bonds have been redeemed. The Twenty-third general assembly authorized the sale of $290,000 of these bonds to support the Colorado Rangers, $200,000 for emergency, and $500,000 for state armories. Special report of the state treasurer.

CHAPTER VIII

THE STATE JUDICIARY

Beginnings of the Judicial System

The necessity for a plan of judicial procedure was recognized at an early date in the history of the people of Colorado. The people in each mining camp, embryo town, and agricultural settlement formed their own simple code of civil and criminal law, and chose their officers to administer the law. In most sections the procedure was copied from that of Illinois; but, in Denver in the early part of 1860, the people in public meeting declared the civil and criminal laws of Kansas in force.[1] The people in the plains district organized the peoples' courts, as they were called; while in the mining sections the miners' courts were established to administer justice informally. In both sections of the country as late as 1884 the execution of the law was left, in the important cases, to a vigilance committee of the people.[2]

When the Territory of Colorado was organized, the first official act of the territorial governor was to administer the oath of office to the judges of the supreme court, to organize the judicial districts and to assign the judges.[3] Three districts were created, each with its own court, presided over by a single judge. The three judges sitting together constituted the supreme court of the Territory.[4] With

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1 Moses Hallet, Colorado Courts, Law, and Litigation, Bancroft Mss. No. 30, pp. 3, 4.
2 Ibid., p. 4.
3 Frank Hall, History of Colorado (1889), p. 267.
4 Ibid., p. 267.

[illegible] XIII

THE NEW ASSESSOR

Development of the Judicial System

The necessity for a group of judicial officers was recognized [illegible] as early date in the history of the people of Colorado. The [illegible] single in each voting county, namely term, not exceeding seven [illegible] years, for single term of with not exceed [illegible], and were fairly [illegible] officers in administer the law. In most counties the presidency was [illegible] from that of Illinois and, in Denver in the early part of 1861, [illegible] people in public meeting declared the civil and criminal laws of [illegible] in force.[1] The people in the plains division appointed the [illegible] justice, in fact were called, while in the mining districts the [illegible] were established to administer justice informally. In [illegible] counties of the country as late as 1864 the association of the law [illegible] part, in the important cases, to a religious committee of the [illegible].[2]

When the Territory of Colorado was organized, the first attempts [illegible] of the territorial officers was to administer the oath of office [illegible] judge of the supreme court, to appoint the judicial districts [illegible] to assign the judges. These duties were accepted, and with [illegible] one court, presided over by a single judge. The three judges [illegible] supreme court at the Territory.[3] With

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1 Frank Hall, History Colorado County, Kan, and Adjoining, Chicago: [illegible], 1889, pp. 2, 4.
2 Ibid., p. 4.
3 Frank Hall, History of Colorado (1889), p. 227.
4 Ibid., p. 227.

the formation of the constitution, the number of judicial districts was increased to four, with the provision that the general assembly might increase or diminish the number of judges in any district, or increase or diminish the number of judicial districts. The limitation was placed on the action of the general assembly in that districts which might be created should be formed of compact territory and bounded by county lines.[1]

Classification of State Courts

The judicial system of the state is determined mainly by the state constitution, which vests the judicial power in the supreme court, district courts, county courts, and such other courts as may be provided by law.[2] Thus by the state constitution and by statute law, the four grades of courts have been established, the fourth one being the justice court.[3]

The lowest court is presided over by a justice of the peace, elected for a term of two years. For the purposes of this election each county is divided by the county commissioners into as many justices' precincts as they deem necessary.[4] The jurisdiction of the justices extends to petty offenses both civil and criminal. It is limited in civil actions to cases in which the value of the property or the amount in controversy does not exceed three hundred dollars.[5] In criminal procedure the jurisdiction of the justice extends to "cases of assault, assault and battery, and affrays," but the penalty which may be im-

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1 Constitution, Art. VI, Sec. 13, 14.
2 Ibid., Art. VI, Sec. 1.
3 Mills Annotated Statutes, Sec. 470.
4 Session Laws of 1921, p. 565.
5 Mills Annotated Statutes, Sec. 4275.

the formation of the constitution, the members of judicial districts were changed so that, with the provision that the general assembly might increase or diminish the number of judges in any district, or district or districts, the number of judicial districts. The legislature was placed on the policy of the general assembly in that distribute which might be needed should be formed of competent territory and populated by county lines.

Qualification of State Judges

The judicial system of the state is determined entirely by the state constitution, which vests the judicial power in the supreme court, district courts, county courts, and such other courts as may be created by law. Even by the state constitution and by statute law, the first order of courts have been established, the fourth one being the trial court.

The lowest court is presided over by a justice of the peace, elected for a term of two years. For the purpose of this discussion such court is treated by the county judge as no more judicial authority as that from township. The qualifications of the justices seem to qualify citizens both civil and criminal. It is limited to civil actions to cases in which the value of the property or the amount in controversy does not exceed forty dollars. In criminal cases the qualifications of the justice consist in "sound of mind, discretion and integrity, and efficient." But the penalty which may be im-

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1. Constitution, Art. VI, Sec. 12, 14.
2. Ibid., Sec. VI, Sec. 1.
3. State Constitution Statutory Sec. 4.
4. Question Court of Ohio, p. 6.
5. State Constitution Statutes. Sec. 1.

posed, however, cannot exceed one hundred dollars.[1] Those who are charged with serious crimes and felonies may be brought before the justice, who does not have jurisdiction to finally dispose of the cases. In such cases the justice may discharge the accused or send him to prison to await the action of a court having jurisdiction in the case.[2]

The court next above the justice of the peace is the county court. A judge elected for a term of four years, one in each county, presides over this court of record.[3] It has concurrent jurisdiction with the district court in all civil actions, suits, and proceedings in which the debt, damage, claim, or value of the property involved does not exceed two thousand dollars. Provision is made, however, that this limitation of the county court shall not extend to the estates of deceased persons.[4] In fact the constitution declares that the county courts shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators, and administrators, and in the settlement of their accounts. In these matters the court has ample powers and full jurisdiction.[5] Many additional interests, varied in nature, are within the control of the county court. Among these may be mentioned the determination, through an appointive commission, of the sanity of persons whose sanity is questioned. A complaint may be filed with the court

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1 Ibid., Sec. 4427.
2 Ibid., Sec. 4426, 4448, 4449; Colorado Justice Manual (1910), Chapter V.
3 Ibid., Sec. 1616, 1617; Constitution of Colorado, Art. VI, Sec. 23
4 Mills Annotated Statutes, Sec. 1680.
5 Art. VI, Sec. 23; Clemes v. Fox, 25 Colo., 45.

[illegible]

by any reputable person, alleging the insanity or mental incapacity of another; whereupon the judge is obligated to issue an order to take the party into custody pending the determination of his condition.[1] It is within the jurisdiction of the county court also to issue certain writs, under conditions determined by law. The writ of habeas corpus may be issued by the judge in all cases except where the petitioner is detained by order of the district court or on a felony charge.[2] The injunction may be used by the county judge, but only to stay proceedings and process in the court or in appeal cases from the justices' court.[3]

In criminal cases, with the exception of juvenile crime,[4] the county court does not have original jurisdiction. The only jurisdiction in ordinary cases of crime is through appeals from the justice's court.[5] Since the jurisdiction of the county court is concurrent with the district court, there could be no appeal from the former to the latter were it not for the constitutional provision which allows appeals to be taken from the county court to the district courts or to the supreme court, in such cases and in such manner as may be determined by law.[6] In making an appeal to the higher court, the complaint cannot be amended to increase damages asked in excess of the jurisdiction of the county court.[7] A further limitation is the inability to appeal from the county court when the case has been appealed from a justice's

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1 Session Laws of 1915, p. 337.
2 Mills Annotated Statutes, Sec. 3365.
3 Ibid., Sec. 1653.
4 Session Laws of 1903, p. 179.
5 Farley v. People, 3 Colo., 66; Mills Annotated Statutes, Sec. 1650.
6 Swenson v. Guard F. & M. Ins. Co., 4 Colo., 479; Constitution of Colorado, Art. VI, Sec. 23.
7 Estes v. Denver, 49 Colo., 378.

court.[1] The county courts being declared inferior to the district courts, the acts of the former may be reviewed by the latter by certiorari from the district court.[2] This interrelation of the courts is further provided both by constitutional and by statute law. The supreme court may interfere, through writ of error to the county court, in every final judgment or decree of that court.[3] Appeal may be taken also from a lower to the supreme court, in all cases where the final judgment exceeds twenty dollars, exclusive of costs, provided no appeal has been taken to the district court.[4]

The district courts serve the people through having original jurisdiction of all causes both at law and in equity, and such appellate jurisdiction as is conferred by law.[5] For the purpose of establishing these courts the state is divided into fourteen districts, in which terms of district court are held at the county seats.[6] In each district the electors elect one or more judges to serve for a term of six years. They must be "learned in the law", at least thirty years of age, citizens of the United States, and residents of the state for two years next preceding their election.[7]

Although the legislature is empowered to legislate concerning many features of the district courts, the power has not been used extensively. In the constitution the districts, four in number, were

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1 Mills Annotated Statutes, Sec. 1665.
2 In re Rogers, 14 Colo., 18.
3 Mills Annotated Statutes, Sec. 1664.
4 Constitution, Art. VI, Sec. 23.
5 Constitution of Colorado, Art. VI, Sec. 11.
6 Mills Annotated Statutes, Sec. 1556; Session Laws of 1921, p. 261.
7 Constitution of Colorado, Art. VI, Sec. 16; Session Laws of 1921, pp. XXI - XXII.

See next page -

named, with provision for the increase in the number when they should be needed to serve the people of the state. The only limitation imposed was that the districts which might be formed should be compact in territory and should be bounded by county lines.[1] Usually the courts hold two or four terms each year, at times determined by law for each district,[2] although the constitution requires that at least one term annually shall be held in each county.[3] These stipulations do not affect the special terms which may be held by order of the court.[4] In addition to the special term as a means of expediting either the civil or criminal work, two or more judges may preside at the same time in different rooms.[5]

In districts where there is more than one judge, the judges may sit in bank to make rules for the court, to appoint the clerk of the court, to approve official bonds, and to transact other ministerial business. Only one judge, however, may preside at any trial. While sitting in bank the court has none of its ordinary power to review an order, to render a decision, or to engage in any otherwise legal proceeding.[6]

The total number of judges serving in the fourteen district courts is twenty-four. There are five in the second district which includes the county of Denver; there are six districts having two judges each; and the remainder have one each.

1 Ibid., Art. VI, Sec. 13, 14.
2 Mills Annotated Statutes, Sec. 1557 ff.
3 Art. VI, Sec. 17.
4 Mills Annotated Statutes, Sec. 1381.
5 Ibid., Sec. 1596.
6 Ibid., Sec. 1601.

With respect to the original jurisdiction of the district courts, there appears to be no well defined limitations. The constitution places no restrictions on the action of the courts except through the specific grant of jurisdiction to the other branches of the judiciary.[1] It does extend to them original jurisdiction in all controversies to which the railroad, telegraph, or toll-road corporation shall be a party.[2] In other matters the constitution gives expression to the jurisdiction of the district courts only in general terms. It is left to statute law to make declaration of their jurisdiction. Appeals from the county court to the district court may be made from final judgments, decrees, and orders of the county court upon questions of law and fact, relating to probate matters and including proceedings in estates of minors, deceased persons, and persons mentally incompetent. When such appeals are made from the county to the district court, they are given preference in trial over all other civil cases at every term of the court.[3] When new legislation has been enacted by the general assembly, it has included frequently the extension of new jurisdiction or an express delegation of authority to the district courts of the state. When either party concerned is not satisfied with the decisions of the state industrial commission, appeal may be made to the district court for a hearing of the case[4]; in actions arising over divorce, alimony, or dissolution of marriage in which the amount involved is in excess of two thousand dollars, the district court has original jurisdiction[5];

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1 Art. VI, Sec. 2, 3, 24, 25.
2 Constitution of Colorado, Art. VI, Sec. 11.
3 Session Laws of 1917, p. 167; Mills Annotated Statutes, Sec. 1612.
4 Session Laws of 1915, p. 556.
5 Ibid., p. 201.

and actions in civil suit arising under the liquor laws of the state likewise fall within the original jurisdiction of the district courts.[1] Thus it appears that by constitutional and by statute law, the district courts have almost unlimited jurisdiction both in civil and criminal affairs.

In making provision for the supreme court the constitution limited its possible expansion by statute law. "Except as otherwise provided in this constitution, the supreme court shall have appellate jurisdiction only and this shall be co-extensive with the state."[2] In addition to its appellate jurisdiction the supreme court was granted power to issue writs of habeas corpus, mandamus, quo warranto, injunction, and other original and remedial writs, with authority to hear and determine the same. As a further expression of its responsibilities, the court is required to give its opinion upon important questions when requested by the governor, by the senate, or by the house of representatives.[3] The supreme court of the state is recognized as the court of highest rank by the extension of a general superintending control over all inferior courts.[4] This authority is not exercised, however, except through the regular methods of appeal or through the use of the writ of certiorari, which prevents courts from going outside their jurisdiction.[5] This court is the only one which has authority to declare any law of the state or any city charter, adopted by the

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1 Ibid., p. 287.
2 Constitution of Colorado, Art. VI, Sec. 2,
3 Ibid., Art. VI, Sec. 3.
4 Ibid., Art. VI, Sec. 2.
5 H. N. Haynes, "The Superintending Control of the Supreme Court", Colorado Bar Association Report, 1899, p. 56.

people acting under the "home rule" law, a violation of the constitution of the state or of the United States.[1] In case such action is taken, the action of the people should not be nullified as opposed to the constitution unless plainly a violation of it. This conclusion must not be the result of narrow and techincal reasoning and the courts must not construe away what the sovereign people have placed in the instrument.[2]

To safeguard the interests of the people against the action of the courts, an amendment of the constitution provides that before a decision of the supreme court which attempts to set aside a law as unconstitutional can become binding it shall be submitted to the people for their approval or rejection.[3] The procedure is as follows: the decision of the court shall be filed with the clerk of the supreme court within ten days after it is made, and it shall not become effective until sixty days after it is filed. If within the sixty days a petition, signed by not less than five per cent. of the qualified electors, and filed with the secretary of state, requests that the measure be submitted to a referendum vote, the secretary is required to arrange to submit it at a general election held within ninety days or at a special election called for the purpose. If the measure submitted is approved by a majority of the electors, it becomes a law, effective within thirty days, notwithstanding the decision of the court. If the decision concerns a charter, then the procedure is modified to

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1 Constitution of Colorado, Art. VI, Sec. 1.

2 People v. Frederick, 67 Colo., 69; Denver v. Telephone Co., 67 Colo., 225.

3 Constitution of Colorado, Art. VI, Sec. 1.

the extent that the petition for the recall of the decision is presented to the legislative body of the city. Otherwise the practise is similar to that followed in the case of a law.[1]

The supreme court consists of seven judges, elected by the electors of the state at large, for the term of ten years. The qualifications of the judge of the supreme court are the same as those for judge of the district court.[2] The judges may sit in bank or in two or more departments as may be determined by the court. When the judges sit in departments, each department has the full power and authority of the whole court, subject to the general control of the court sitting in bank, but no decision of a department becomes the judgment of the court unless concurred in by at least three judges. Where the case involves a construction of the state or federal constitution, the court is required to sit in bank.[3]

At least two terms of the supreme court are held each year at the seat of government.[4] This constitutional provision has been supplemented by statute law, so that three terms are held annually, beginning the second Monday in January, in April, and in September. In addition to these regular terms, special terms may be ordered by the court.[5]

Besides the ordinary courts, which are to be found in every state, the constitution of Colorado makes provision for "such other

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1 In 1921 the Supreme Court of Colorado held that a decision of that court cannot be reviewed, suspended, or reversed. People v. Western Union Telegraph Co. et al., 198 Pacific 146, 150. See Chapter III.

2 Constitution of Colorado, Art. VI, Sec. 4, 5, 6, 7, 10.

3 Ibid., Art. VI, Sec. 5.

4 Ibid., Art. VI, Sec. 4.

5 Mills Annotated Statutes, Sec. 1518, 1519.

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courts as may be provided by law." In accord with this clause, it is provided that in counties having a population of one hundred thousand or more exclusive original jurisdiction in cases involving minors and persons whose offenses concern minors may be vested in a separate court to be established by law.[1]

The origin of the first juvenile court of Colorado may be traced to the appointment of Ben B. Lindsey, by the board of county commissioners, to fill out a term of nine months as county judge in what is now Denver County.[2] While he served in this capacity, Judge Lindsey was obliged to deal with juvenile offenders who were charged with petty crime. Through a study of the effect of imprisonment upon the juvenile offender, he became convinced that sending boys to prison confirmed them in criminal habits. To avoid the usual practise of treating the juvenile and the adult alike, where they were accused of crime, complaints were filed informally against children under the Colorado school law of 1889, which stated:

> Every child ..... who does not attend school ..... or who is vicious, incorrigible, or immoral in conduct, or who is an habitual truant from school, or who habitually wanders about the streets during school hours without any lawful occupation or employment, or who habitually wanders about the streets at night time..... shall be deemed a juvenile disorderly person and be subject to this act.[3]

The juvenile disorderly person was not a criminal to be punished under the criminal law but a ward of the state to be corrected. The

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1 Art. VI, Sec. 1; Denver is the only county meeting this requirement. Well organized juvenile divisions of the county court are to be found in Boulder, Weld, El Paso, and Pueblo Counties. W. H. Slingerland, Child Welfare Work in Colorado (University of Colorado Bulletin, 1920), Chapter I.

2 Ben B. Lindsey and Harvey O'Higgins, The Beast (1910), pp. 75 ff.

3 Quoted in Lindsey and O'Higgins, op. cit., p. 87.

law for disciplining school children was construed by Judge Lindsey for general juvenile purposes. This was the first juvenile court in Colorado.[1]

The juvenile court is founded upon the principles that our laws against crime are inapplicable to children; that sympathy rather than fear is the proper basis for dealing with the young boy or girl. The judge is regarded as the friend who desires to help the one in difficulty, but who will be unable to do so if the boy or girl persists in wrong doing. The offender needs to be encouraged to confess, to be taught wherein he has been engaged in wrong doing, and to be strengthened to do right afterward.[2]

In 1907 the legislature provided for the establishment of a juvenile court in each county of the state which had a population of one hundred thousand or more.[3] In other counties the care of juvenile cases was left to the jurisdiction of the county courts.[4] When the law establishing the court was enacted, the effort was made to place the court on a stable basis by declaring it a court of record whose processes should be issued and served like those of any other court of record in the state. The dignity of the court also should be maintained by the judges having full power to maintain order, and to assess fines and impose punishment for contempt as in the county courts. It was further provided that the judges of the juvenile courts should have the same qualifications as were imposed by law for the district judges

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1 Lindsey and O'Higgins, op. cit., pp. 87 - 88.
2 Ibid., pp. 133 - 134.
3 Session Laws of 1907, p. 324.
4 Session Laws of 1903, p. 179.

and should be elected for the term of four years.[1]

The jurisdiction of the juvenile courts is original in all criminal cases and in proceedings in which a child or minor is concerned. Any adult who is involved in cases affecting delinquent, dependent, or neglected children likewise comes within the jurisdiction of the court. Similarly, the court exercises control over the relations of a parent, guardian, or other person, corporation, or institution with a child or minor.[2] The effort of the court is to not only correct the action of the child itself but to regulate the conditions responsible for the wrongdoing of the child.

In the counties in which a juvenile court may be established, the county judge does not have any jurisdiction in a case which concerns delinquent, dependent, or neglected children or minors, or in the case of adult persons who have duties to or responsibilities for such children or minors.[3] An exception is made in dealing with a child or minor in any divorce case brought before the county court. In any criminal case against a minor, or in any criminal case against an adult for the violation of any law of the state, where the offense is against the person or involves the morals of a child or minor, the juvenile court has concurrent jurisdiction with the district court.[4]

At various times the laws of the state have provided for additional courts to aid those regularly established. The constitution provides for the creation by statute law of a criminal court in each coun-

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1 Session Laws of 1907, p. 326.
2 Ibid., p. 325.
3 Ibid., p. 330.
4 Ibid., p. 330.

[illegible] should be altered for the sake of their owners.[1]

The jurisdiction of the juvenile courts is original in all [illegible] cases and is governed in which a child or minor is accused [illegible]. Any adult who is involved in cases affecting delinquent, dependent, or neglected children likewise comes within the jurisdiction of the court. Finally, the court reviews orders for the children [illegible] parents, guardian, or other person, corporation, or institution [illegible] a child or minor.[2] The effect of the court is to act only as [illegible] the action of the child itself but to regulate the conditions [illegible] for the management of the child.

In the counties in which a juvenile court may be established, [illegible] county judge does not have any jurisdiction in a case which [illegible] delinquent, dependent, or neglected children or minors, or in the case [illegible] adult persons who have failed to be responsible for such [illegible] or minors.[3] In everything is made in dealing with a child or [illegible] minor in our courts does brought before the juvenile court.[4] In any [illegible] were involved a minor, or in any criminal case against or affecting [illegible] the violation of any law of the state, where the attempt is against [illegible] person or involves the morals of a child or minor, the juvenile [illegible] the concurrent jurisdiction with the criminal court.

As yearlong since the laws of the state have provided for additional [illegible] courts to all those specially established. The constitutionality [illegible] upon the question by stating law of a criminal court in such [illegible]

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1 [illegible] Laws of 1907. p. [illegible].
2 [illegible]. p. [illegible].
3 [illegible]. p. [illegible].
4 [illegible]. p. [illegible].

ty having a population exceeding fifteen thousand, which may have concurrent jurisdiction with the district courts in all criminal cases not capital.[1] When the general assembly enacted a law to create such a court, the state supreme court declared it unconstitutional, on the grounds that the act was a special law which regulated the procedure in a court of justice contrary to the constitution.[2] Although the law of 1883 has never been repealed, there are no courts now in existence under the act.

The general assembly likewise attempted to relieve the over burdened supreme court.[3] By the act of April 6, 1891, the court of appeals, consisting of three appointed judges, was created to exercise appellate jurisdiction of cases tried in lower courts. Since this court introduced friction in the judicial machinery by interposing a decision which frequently was not final, it was discontinued in 1905.[4] The pressure of work before the supreme court, in 1911 caused the court of appeals to be revived. It was of short duration this time, for, in 1915, it was abolished and the supreme court took over its jurisdiction.[5]

Structure of the Courts

In the judicial system of the state the judge is the official of greatest importance. He is charged with the preservation of the

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1 Constitution of Colorado, Art. VI, Sec. 24; Mills Annotated Statutes, Sec. 1694.

2 Ibid., Sec. 1694; Ex parte Stout, 5 Colo., 509.

3 By an earlier act (1887) a supreme court commission had been created. It served in an advisory capacity chiefly, so did not greatly relieve the supreme court. It was abolished by the act which created the court of appeals.

4 Session Laws of 1891, pp. 118 - 121; Wilbur F. Stone, History of The Appellate Courts of Colorado. Report, Colorado Bar Association, 1905, pp. 20 ff.; Constitution of Colorado, Art. VI, Sec. 8.

5 Session Laws of 1911, p. 266.

public peace in the district within his jurisdiction, where he has full power to enforce all laws designed to preserve the public peace.[1] When a case is brought to trial, the judge presides and applies the law to the facts presented. If the case is tried without jury, the judge hears the pleas, determines the facts, and pronounces the sentence or gives the award. In case the trial is had before a jury, it determines the facts in the case and applies to these facts the law as stated in the instructions given by the judge.

The judges in the supreme and district courts are required not to act as attorney or counsellor at law or to give advice touching any case pending or to be brought before any court.[2] The county judges, however, are permitted to practise in the higher courts, providing the cases have not been before the county courts.[3] If the judge has an interest in a case, either by reason of having served as council or by other connection, he is disqualified to serve. Some other judge of equal rank may be requested to try the case. If the judge does not comply, a change of venue may be ordered.[4] At any time when a judge is unable to conduct his own court, he may seek the assistance of another, who is under obligation to preside when not officially engaged.[5] When a judge by reason of sickness, absence from the state, or any other cause is unable to preside, the governor of the state may assign some other judge to that court, or he may appoint a substitute

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1 Mills Annotated Statutes, Sec. 2059.

2 Constitution of Colorado, Art. VI, Sec. 18; Mills Annotated Statutes, Sec. 1527.

3 Ibid., Sec. 298 - 299.

4 Sterling Ditch Co. v. Iliff and Platte V. D. Co., 24 Colo., 491.

5 Mills Annotated Statutes, Sec. 1594.

[illegible] people in the district attack his popularity, which he has [illegible] [illegible] to enforce all laws designed to protect the public order. When [illegible] fear to testify in court, the police permitted not agitate to use the [illegible] the State passed. If the case is trial without jury, the judge [illegible] the plea, determines the facts, and pronounces the sentence or [illegible] the award. In case the judge is not before a jury, it determines [illegible] the facts in the case and applies to them facts the law as stated in [illegible] instructions given by the judge.

The judge in the appeal of criminal cases may be required not [illegible] an attorney or counsellor at law to be give advice concerning [illegible] or to be brought before any court. The court judges, however, are permitted to practice in the village courts, providing [illegible] have not been before the county courts. If the judge has [illegible] in a case, either by reason of having served as counsel or [illegible] other connection, he is disqualified to serve. Some other judge of equal rank may be requested to act in his stead. If the judge has [illegible] quality, a change of venue may be ordered. In any time when a [illegible] is unable to conduct his own court, he may call the convenience [illegible] matter, or is under obligation to question which not criminally [illegible]. Then a judge by request of citizens, chosen from the state [illegible] other judge is unable to preside, the governor of the state may [illegible] some other judge in that court, or he may appoint a substitute

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1 [illegible] Constitution, Sec. [illegible].

2 Constitution of [illegible], Art. [illegible], Sec. [illegible] [illegible] Constitution, Sec. [illegible].

3 [illegible], Sec. [illegible] - [illegible].

4 Another Case [illegible], [illegible] and [illegible] v. [illegible], [illegible] [illegible].

5 [illegible] Constitution, Sec. [illegible].

for the term.[1]

All judges of the state are elected by popular vote, either by district or by the state at large. The election of judges takes place at the time when the legislative and executive officials are chosen, by the same procedure with respect to nominations and method of voting. Since the chief interest in an election rarely is concerned with the personal merits of the candidates for judicial office, the electorate does little more than to ratify the choice of the party managers. The dangers of the elective method are lessened by the interest of the state bar association which usually through its organization proposes candidates for nomination or at least endorses certain candidates which have been named by the parties.

The term of office is comparatively short. The members of the supreme court hold office for ten years; the district judges, for six years; the county judges, for four years; and the justices of the peace, for two years.[2] The practice of retaining the judge of the higher court for a longer period than in the lower offices of the judiciary is favorable to the efficiency of the courts, for ability comes from experience and practise. The compensation is also insufficient to recommend the office to first-rate practising attorneys, for the income of the lawyer of ability is greater than the modest salary of the judge.[3] Were it not for the fact that the official who serves in the judiciary gains a valuable experience and a prestige which

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1 Ibid., Sec. 1593.
2 Constitution of Colorado, Art. VI, Sec. 8, 12, 22; Art. XIV, Sec. 11.
3 See Appendix II.

the five years.[1]

All judges of the state are elected by popular vote, either directly or by the state at large. The selection of judges takes place in the time when the legislature and executive officials are elected, by the same procedure with respect to nominations and method of voting. Since the social interest is so directly bound up with the personal merits of the candidates for judicial office, the electorate does little more than to ratify the choice of the party managers. The decisions of the electors should be influenced by the approval of the state bar association which consists through its executive committee nominations for candidates or in large measure nominations made by the parties.

The term of office is comparatively short. The members of the supreme court hold office for ten years; the district judges, for six years; the county judges, the chief judge, and the justices of the peace, for two years. The practice of rotating the judge of the higher courts for a longer period than in the lower courts affords a satisfactory is favorable to the efficiency of the courts, for stability and continuity in the administration of justice. The compensation is also sufficient to recommend the office to first-rate practicing attorneys. But the issues of the judges of ability is greater than the salary of the judge. Here is not for the fact that the official was secure in the judiciary gives a reasonable assurance and a certain value

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1 Ibid., Sec. 1207.

2 Constitution of Colorado, Art. VI, Sec. 6, 7, 8, 10, 11, 12, 13, Sec. 22.

3 See Lowell 77.

gives him an advantageous standing among the members of the legal fraternity and increases his private practise later, the judicial system might suffer at the hands of incompetents.

The judges are removable by three different methods: election, impeachment, and recall. The frequent elections give opportunity for the removal periodically by the election of another candidate. The impeachment procedure is not applicable to the county judges or to the justices of the peace.[1] When this process of elimination is used, the house of representatives brings charges that the judge has been guilty of some serious offense. The senate acts as a court to hear the evidence, and to render a decision by a vote to sustain or to dismiss the charges of the lower house. In serving as the court of impeachment the senators are under oath to do justice according to law and the evidence in the case. Conviction requires a concurrence of two-thirds of the senators elected.[2]

The third method of removal is by the recall, which is applied to all elective state officials alike.[3] The movement for this reform of the judicial veto appears to have grown out of the general dissatisfaction with the practise of courts in making decisions based upon technicality of law rather than justice, upon the disregard for the rule of reason.[4] As a part of the reform movement in Colorado, the constitution was amended in 1912 to include the recall of judges.[5] This

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1 Constitution of Colorado, Art. XIII, Sec. 2.
2 Ibid., Art. XIII, Sec. 1.
3 See Chapter III.
4 Holcombe, op. cit., p. 374 - 5.
5 Art VI, Sec. 1.

[illegible] like an absolutesque monolithic among the members of the legal profession[illegible] and increases the private practice lawyer. The judicial system which suffers at the hands of incompetents.

The judges are selected by three different methods: election, appointment, and recall. The Federal judiciary give especially the [illegible] potentiality by the election of greater availability. The [illegible] possible in not applicable in the minority judges or in the [illegible] of the press. Over this process of elimination is used, [illegible] at representative voting although that the judge has been gui[illegible] of some political affiliation. The judge is into is a board to vote the [illegible], and to provide a forbidding by a vote in unable to disclose [illegible] judges of the lower court. In serving on the board of [illegible] the employee are under such to do justice according to law and [illegible] to the case. Particular employee a [illegible] of [illegible] of the employee clerks.

The third method of removal is by the recall, which is applied [illegible] elective state officials only. The movement for this method [illegible] the political very opposed to have power out of the general discretion [illegible] the question of a vote in making decisions based upon availability of the voting true parties, even the difference for the vote [illegible]. In a part of the voting movement to Delaware, the recall [illegible] was amended in 1911 to include the recall of judges. This

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1 Constitution of Delaware, Art. XIII, Sec. 3.
2 Ibid., Art. XIII, Sec. 2.
3 See Chapter III.
4 Kilpatrick, op. cit., p. 274 - 2
5 Art XI, Sec. 1.

method of removal of judges has not been used successfully in the state.[1] The existence of the plan does not necessarily weaken the judiciary, for the traditional policy of the independence of the courts exerts its strong influence.

The administration of the law through court procedure usually requires the trial by jury. In criminal cases this involves indictment by the grand jury and trial by the petit jury; in civil cases either party may insist upon a jury.[2]

The grand jury consists of twelve persons who are selected to serve whenever the court which has jurisdiction in the county orders.[3] In all complaints presented they are required to hear witnesses on behalf of the people only. Any nine may find an indictment on the oath of one witness only, or upon information of two of their own members, except in case of perjury, when at least two witnesses to the same fact are necessary.[4] Neither the constitution nor the statutes give the duties of the grand jury except incidentally; in the juror's oath the nature of his duty is given.[5] Before the grand jury enters upon its duties the foreman, who is appointed by the court, takes the following oath, which each juror in turn promises to observe:[6]

You, as foreman of this inquest, do solemnly swear (or affirm) that you will diligently inquire into, and true presentment make, of all such matters and things as shall be given you in charge, or shall otherwise come to your knowledge, touching the present service; you will present no person through malice, hatred or ill-will, and that you leave no one unpresented through fear, favor or affection, or for any fee or reward or the hope or promise thereof; that you will keep secret your own

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1 Report from office of Clerk of Supreme Court.
2 Mills Annotated Statutes, Sec. 4413, 4428.
3 Ibid., Sec. 4260 ff.
4 Ibid., Sec. 2078; Constitution of Colorado, Art. II, Sec. 23.
5 Stratton v. People, 5 Colo., 277.
6 Mills Annotated Statutes, Sec. 4264.

counsel and that of your fellows touching the present service, and that in all your presentments you will present the truth, the whole truth and nothing but the truth, according to the best of your skill and understanding, so help you God.

Thus it appears that it is the duty of the grand jury to inquire into the commission of crimes in the county over which it has jurisdiction. After it has made investigation and gained evidence, it presents a report to the court, which is called a "true bill" or a "false bill", as the case may be.[1] In the "true bill" a person is charged with certain crimes or misdemeanors.

The efficiency of the grand jury is lessened by the statutory provision that it is to be called only at the discretion of the court. The definite annual or semi-annual session of the jury which is common in some states tends to make it a more effective agency of popular control over government. In counties of over one hundred thousand population the grand jury is to be summoned to attend the district court at least twice each year; in the counties of from twenty thousand to one hundred thousand, one term of the court is attended by the grand jury each year; and in other counties it is summoned at the discretion of the court.[2] Thus the grand jury is in effect an appendage of the court, although it acts to some extent independently of it.[3]

The petit jury, or trial jury, is summoned for criminal cases in the justices' courts, in the county courts, and in the district courts. The right of trial by jury in criminal cases is guaranteed by the constitution; but in civil cases either party may have a jury

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1 Ibid., Sec. 4263.
2 Session Laws of 1913, pp. 390 - 391.
3 Wyatt v. People, 17 Colo., 252.

[illegible] and that of some failure involving the grand jury, and [illegible]. In its full jurisdiction it will [illegible] the trial, the [illegible] and indictment, or fully [illegible].

This is apparent that it is the duty of the grand jury to inquire into the commission of crimes in the county over which it has jurisdiction. After it has made investigation and gained evidence, it presents a report to the court, which is called a "true bill" or a "false bill", in the case may be. In the "true bill" a person is charged with the crime with which he is indictment.

The activity of the grand jury is lessened by the constitutional provision that it is to be called only at the discretion of the district attorney. Texas Codes provide no mandatory section of the jury which is summoned as mandatory section of the jury which the district attorney may make excuse ranks to use a it a more effective agency of popular information over prosecution. In addition of over the federal [illegible] jurisdiction the grand jury is to be summoned to attend the district court at least twice each year; in the counties of from [illegible] to [illegible] the federal [illegible], the time of its course is affected by the grand jury each year; and in other counties it is summoned at the discretion of the court. Thus the grand jury is in effect a [illegible] of the court, although it acts in some manner independently of it.

The petit jury, or trial jury, is summoned for criminal cases in the justices' courts, in the [illegible] of courts, and in the district courts. The right of trial by jury is [illegible] guaranteed by the constitution; but it still cause [illegible] may take a jury

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1 Ibid., Sec. [illegible].
2 Revised Laws of Tex., Sec. [illegible].
3 Texas Jurisdiction, [illegible].

summoned to try a case by advancing fees for the expenses of the jury. In the latter cases the jury may consist of not less than three nor more than twelve. In any case where the number is less than twelve the adverse party, however, may have the number increased to twelve by advancing additional fees necessary for the increased number.[1] The jurors are chosen from lists of names prepared by the board of county commissioners.[2] All the male inhabitants of the state who are twenty-one years of age, who are citizens of the United States or have declared their intention to become citizens and who have not been convicted of felony, are competent to serve as grand and petit jurors.[3] For the purpose of selecting jurors the counties of the state are divided into four classes: counties having ten thousand or more voters constitute the first class; those having between three thousand and ten thousand, the second class; those having between one thousand and three thousand, the third class; and those having less than one thousand, the fourth class. At least sixty days before the holding of court the

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1 Constitution, Art. II, Sec. 23; Mills Annotated Statutes, Sec. 1656, 1674. In important cases an extra juror may be drawn and summoned to prevent mistrial due to death, sickness, accident, or absence of a regular juror. This additional juror attends the trial and is treated in every way like the regular members of the jury, but he serves only in case of need (Session Laws of 1921, p. 561).

2 Ibid., Sec. 4229.

3 Ibid., Sec. 4219. The following persons are exempt from jury service: state and county officers, justices of the peace, constables, attorneys and counselors at law, active officials of railroad, telephone, and telegraph companies, editors and reporters, postmasters, teachers, pharmacists, and persons over sixty years of age.

board of county commissioners is required to select competent persons to serve as jurors, in the four classes of counties, eight hundred, three hundred, two hundred, and one hundred, respectively. The county treasurer, at the request of the board of county commissioners, delivers a list of the male inhabitants who pay taxes, from which the jury list may be made. The names which are selected are certified to the clerk of the district court who writes them on ballots, one on each ballot, and places the ballots in a box kept for the purpose.[1] As jurors are needed in any of the courts names are drawn by lot from the box and the persons are summoned to appear at the trial.[2]

In counties which have over one hundred thousand population, the judges of the several courts of record constitute a board to select an elector to be a jury commissioner, who relieves the board of county commissioners and the other officials concerned of their duties in securing jurors.[3]

In civil and criminal cases both parties have the right to challenge a juror. When the case deals with a capital offense, each party is entitled to fifteen peremptory challenges; when the offense is punishable by imprisonment in the penitentiary, each party is allowed ten peremptory challenges; and in all other criminal cases three peremptory challenges are allowed. Additional challenges are allowed, one for each defendant, when there is more than one defendant, but the number may not exceed thirty on each side.[4] In civil actions, if

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1 Ibid., Sec. 4228.
2 Ibid., Sec. 4271.
3 Ibid., Sec. 4240 ff.
4 Ibid., Sec. 4257; Session Laws of 1917, p. 332.

[illegible] of merely commentatorship is required in which independent persons [illegible] ability as jurors, in the face alone of evidence, logic reasoning, [illegible] instead, the instinct, not the instinct, unreasoning). The whole [illegible], in the opinion of the minds of merely commentators, [illegible] [illegible] of the mere intellectuality who may blame, from which the jury [illegible] to rule. The same which are relevant are restricted to the [illegible] [illegible] the district which are enough to decide, one on each point. [illegible] [illegible] the jurors are [illegible] in one of the whole room are drawn by lots from the [illegible] [illegible] jurors are required to supply it for [illegible].

In analysis which have over the limited functional population, the [illegible] of the original worth of which actual view a basis to relate to [illegible] to a jury commentator, which relieves the board of merely [illegible] and the whole activities connected of their duties in re- [illegible] jurors.

In civil and criminal cases the jurors have the right to [illegible] a juror. When the case begins with a special attorney, [illegible] is entitled to fifteen peremptory challenges which are [illegible] [illegible] to disqualification in the particular case, with regard to [illegible] [illegible] the peremptory challenges, and in all other criminal cases three [illegible] peremptory challenges are allowed. Additional challenges are allowed [illegible] the usual difficulty, some times in some form are [illegible], but the [illegible] may not actual study on such cases. In civil matters, it

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1. [illegible]. Sec. [illegible].
2. [illegible]. Sec. [illegible].
3. [illegible]. Sec. [illegible].
4. [illegible]. Sec. [illegible]; [illegible] [illegible], p. [illegible].

either party questions the competency of a prospective juror, the judge determines the fitness of the juror.[1]

In each court of record there is a clerk whose duty is to keep the records of the court and perform other duties required by law. This officer is appointed by the judge or judges of the court and holds office during the pleasure of the appointing power.[2] The clerk attends each term of court and serves in whatever capacity the court may desire. Since he collects fees and has temporary possession of money belonging to the county, he is placed under bond, varying in amount according to the class of the county, from five thousand to twenty-five thousand dollars.

The sheriff of the county is an officer of the court. As such he attends each term of court to maintain order; he aids in the drawing of jurors and, under the direction of some other officer of the court, summons those called for jury service; and he executes, according to law, all processes, writs, and orders issued by authority and directed to him.[3] Like the other incumbents of important offices the sheriff gives bond, as determined by the board of county commissioners, to the extent of five thousand to twenty thousand dollars.[4]

The remaining judicial officer is both a county and state official. The district attorney is elected, at the general election, by the electors of each judicial district, for a term of four years. To

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1 Mills Annotated Statutes, Sec. 4258.

2 Constitution of Colorado, Art. VI, Sec. 9, 19; Mills Annotated Statutes, Sec. 1688.

3 Ibid., Sec. 1792, 1688.

4 Ibid., Sec. 1385.

be eligible to the office, a person must be at least twenty-five years of age and must possess all the qualifications of judges of the district courts.[1]

The duties of the district attorney are so numerous and of such character that the office is one of great importance. In both civil and criminal affairs he represents his state, and the several counties of his district, in all indictments, suits, and proceedings pending in the county or district courts. It is within his province also to take part in the preliminary examination of persons charged with any offense before a justice of the peace or judge in his district.[2] In addition to the duties already mentioned the district attorney is required to be present at all sessions of the grand jury and at inquests held by any coroner within the district. As a participant in these he has authority to subpoena and examine witnesses.[3] The district attorney is further required to give his opinion in writing upon all questions of law having reference to the duties of any county officer within his district.[4]

Procedure of the Courts

The judges of the supreme court and of the district courts and the justices of the peace are agents of government to preserve the peace within their respective jurisdictions. They are authorized also to enforce the laws for the prevention and punishment of offenses. In performing these functions they may bring before them persons who disturb the peace or threaten to do so. The person who is brought be-

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1 Constitution of Colorado, Art. VI, Sec. 21.
2 Mills Annotated Statutes, Sec. 2221.
3 Ibid., Sec. 2223; Session Laws of 1917, p. 165.
4 Mills Annotated Statutes, Sec. 2224.

fore a court may be dismissed, committed to jail, or admitted to bail, as the case may require.[1] When threats have been made to break the peace, by threats either against a person or against property, the court may require the persons making the threats to give sufficient security for the maintenance of the peace or for good behavior. In case such security is not furnished, it becomes the duty of the judge to place the parties concerned in jail.[2] It is the duty of sheriffs, coroners, and constables, likewise, to apprehend persons guilty of committing felonious offenses. Upon the oath of a witness that a crime has been committed, a judge or justice is empowered to issue a warrant to arrest the person charged with a crime, to bring him before the court for inquiry as to the truth of the charges. The result of the inquiry determines whether the accused is jailed, admitted to bail, or discharged.[3] The officers to whom is issued a warrant for the arrest of an offender may go, in the pursuit, into adjoining counties to make the arrest. Since the warrant for arrest is directed to all sheriffs, coroners, and constables within the state, any of these officers is required to execute it within his county, and to take the offender before a judge or justice of the peace who issued the warrant or before some other judge or justice of the same county.[4]

When the offender has been examined by the judge or justice of the peace or when the grand jury has found a "true bill", it remains for the court to determine whether the offender shall be admitted to

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1 Constitution of Colorado, Art. II, Sec. 19; Mills Annotated Statutes, Sec. 2059.

2 Ibid., Sec. 2059.

3 Ibid., Sec. 2061. When the proof is evident or the presumption great that a person charged with crime is guilty, no justice of the peace is allowed to admit to bail the person charged with offenses punishable by death.

4 Mills Annotated Statutes, Sec. 2065.

bail. If he is so admitted, the court determines the amount of the security required to insure his appearance when he is desired to come before the court.[1] In all cases of bail for the appearance of a person charged with criminal offense, the security of the person may deliver the offender to the sheriff of the county at any time and thereby be released from the obligations assumed.[2]

At the preliminary hearing before a judicial magistrate the accused is entitled to be present and hear all the witnesses who are called to give evidence, to participate in their examination, and to be heard in his own behalf.[3]

Before a person can be brought to trial for an offense called a felony, the grand jury must find an indictment or the attorney for the state must file information. If the crime charged is in the nature of felony (murder, arson, or forgery) action must be taken within three years after the offense is committed; if the crime charged is a misdemeanor, then action must be begun within one year and six months. The accusation of the grand jury states the nature of the offense in terms easily understood by the jury. The courts, in a similar manner, have power to prosecute, upon information, for crimes, misdemeanors, and offenses, as in cases under indictment. Information is filed by the district attorney in the court having jurisdiction of the particular offense. In case the defendant has not had the privilege of a prelim-

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1 Ibid., Sec. 2074.
2 Ibid., Sec. 2075.
3 In re W. S. Dolph, 17 Colo., 35.

inary examination an affidavit is required to be filed with the information that according to the personal knowledge of the one making the affidavit the offense was committed. For the information to be sufficient it must be understood: (a) that it is presented by the person authorized by law to prosecute the case; (b) that the defendant is named therein; (c) that the offense was committed within the jurisdiction of the court; and (d) that the offense charged is so clearly set forth that the court may pronounce judgment upon conviction.[1] It is within the authority of the district attorney to file information against any person who has been detained after a preliminary examination, or he may file with the clerk of the court his reasons for not filing information. In some cases upon which the district attorney fails to act, the judge of the court which has jurisdiction may require the district attorney to prosecute in compliance with the law. This action may follow the filing of an affidavit with the judge that a crime has been committed.[2]

The first stage of the trial proceedings is the arraignment. The defendant is brought into court to hear the indictment or information read. In response to the question of his guilt, if he declares that he is guilty, the case is concluded by the sentence. He may submit to the court in writing a motion to quash the indictment in which the reasons why the trial should be abandoned are set forth. These reasons are given consideration by the judge, who determines their

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1 Mills Annotated Statutes, Sec. 2076 ff.

2 Ibid., Sec. 2089 - 2091.

validity. If the defendant pleads not guilty, the trial proceeds.[1]

In preparation for the trial the clerk of the court issues subpoenas to secure witnesses for both the prosecution and the defense. From the jury lists jurors are selected before whom the trial proceeds. The prosecution presents evidence to support the accusations made in the indictment or information.[2] Witnesses are introduced, examined, and cross examined on matters pertaining to the case. After both sides have presented all the testimony, the attorneys review the evidence and try to convince the jury of the guilt or innocence of the defendant. The judge gives instructions concerning the law and the facts to the jury, which determines the question of the guilt of the accused and gives the verdict.[3]

If the accused is found guilty the sentence provided by law may be imposed by the judge. In many cases the punishment for a crime or misdemeanor is discretionary with the court as to amount or extent. The court may be authorized to determine this with respect to corporal punishment, imprisonment, or fine.[4] In any case in which there is conviction of crime or misdemeanor, the court is required to give judgment that the convicted offender pay the costs of prosecution. If the offender is unable to make the payment, then the county assumes the responsibility.[5] In all cases of conviction when a fine is imposed,

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1 Ibid., Sec. 2102.

2 Although the accused is protected by the constitution against self incrimination, conditions were such in 1909 that the legislature passed a law making it a felony for any person, having authority to make arrest, to obtain by violence or threat of violence a statement or confession of his knowledge of an alleged crime. Session Laws of 1909, pp. 468 - 469.

3 Ibid., Sec. 2102 ff.

4 Ibid., Sec. 2134.

5 Ibid., Sec. 2135, 1189, 2146.

the court is authorized to commit the offender to jail until the fine and costs are paid. In giving the sentence the judge may include in the penalty the provision that the person sentenced be kept at hard labor during the term of imprisonment. To provide for this sentence the board of county commissioners is required to furnish work either in the county jail or elsewhere. The keepers of prisons also are authorized to cause convicts under their charge to be employed on public work upon terms as may be arranged by those in charge of the convicts. The proceeds of such labor are to be placed to the credit of the county from which the prisoner comes. Whenever the death penalty is imposed the punishment is inflicted by hanging under the direction of the commissioners of the state penitentiary.[1] This extreme form of punishment may be commuted by the governor at his discretion from capital punishment to imprisonment for life or for a term of not less than ten years at hard labor. To encourage good conduct on the part of the prisoner, the convict who is sentenced to the state penitentiary is given a "maximum and minimum term". The maximum term is not longer than the longest term fixed by law for the offense and the minimum term is not less than the shortest term legally established for the offense. In addition to this, for good behaviour, one month may be deducted from the term for the first year of serving; two months, for the second year; and so on to six months, for the sixth year and each succeeding year.[2]

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1 Ibid., Sec. 2148 ff.
2 Ibid., Sec. 2165, 5463.

[illegible]

The procedure in civil cases is similar in many respects to that in criminal cases. Under the laws of Colorado the distinction between actions at law and suits in equity is abolished. There is only one form of action for the enforcement or protection of private rights and the redress or prevention of private wrongs.[1] In this civil procedure there are two parties, the plaintiff and the defendant. The former seeks to maintain his rights against the action of the defendant, and, if successful, he may be awarded damages.[2] The chief differences which may be noted in the criminal procedure are that the state is the prosecution and the guilty party is punished.

The first step in civil procedure is the filing of a complaint with the clerk of the court in which action is brought. This is a statement of the facts upon which the grievance is based and of the demands for relief. The complaint is followed by a summons which requires the defendant to appear and to answer the complaint within thirty days. When the summons is served, the sheriff of the county where the defendant is found returns a certificate to the clerk who issued it, stating that the order has been carried out.[3] The pleadings are formal statements of the respective claims and defenses of the two parties, which are filed with the clerk. On the part of the plaintiff there is a declaration of the facts upon which the claims are based. The defendant usually pursues one of two courses: he denies the whole or a portion of the plaintiff's contention, or he admits the truth of the

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1 Mills Annotated Code of Civil Procedure (1905), p. 2.
2 Ibid., p. 8.
3 Ibid., pp. 57 ff.

The problem in civil cases is similar to that regards in criminal cases. Under the laws of Colorado the distinction between actions of law and suits in equity is abolished. There is only one form of action (1) the authorized by statutes of civil procedure and the rules or principles of equity.[2] In this civil proceedings there are two parties, the plaintiff and the defendant. The former person is seeking his rights against the action of the defendant, and, if successful, he may be awarded damages. The court authorizes which may be taken to the criminal procedure and that the rights in the proceedings and the civil party is involved.

The first step in civil procedure is the filing of a complaint with the clerk of the court to which action is brought. This is a statement of the facts upon which the plaintiff is found and of the demand for relief. The complaint is followed by a summons which requires the defendant to answer and to answer the complaint within thirty days. When the summons is served, the district of the county where defendant is first found receive a certificate to the effect that the summons has been served and. The pleadings are formal statements of the respective claims and defenses of the two parties, which are filed with the clerk. In the part of the plaintiff's case is a declaration of the facts upon which the claims are based. The defendant usually presents one of two answers. He denies the truth or sufficiency of the plaintiff's contention, or he admits the truth of the

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1 Harry Benjamin Cohn of Civil Procedure (1907), p. 6.
2 Ibid., p. 7.
3 Ibid., pp. 8 ff.

plaintiff's contention but justifies his own position. A third course may be taken by the defendant by which he admits the facts but denies that the laws allow the remedy demanded.[1] In the trial which may be held with or without a jury[2] the rights of the parties are determined and damages are awarded, if the defendant is found at fault.

One step further may be required to satisfy the plaintiff. If the award which is given as a result of the trial is in the nature of damages, it may be necessary for the court to issue a writ of execution. This directs that the property of the defendant be levied upon to satisfy the judgment. The judgment which is left unsatisfied becomes a lien upon all the real property owned by the debtor, or acquired by him during a period of twenty years.[3]

Work of the Higher Courts

All of the courts above the justices' courts have both original and appellate jurisdiction. All of the courts deal with both civil and criminal cases. In civil action the work of the courts is largely concerned with the enforcement of law by the issuance of injunctions, binding persons over to keep the peace, and imposing penalties on some persons to deter others from committing the same offenses. In criminal cases, however, the work of the courts is chiefly concerned with the determination of guilt and the infliction of punishment. The importance of the work of the courts is suggested by the general practise of placing the final interpretation of every law upon the

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1 Ibid., pp. 93 ff.
2 The constitution, Art. II, Sec. 23, safeguards the right of trial by jury in both criminal and civil cases.
3 Mills Annotated Statutes, Sec. 4159.

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courts. In like manner, the acts of officials are usually subject to judicial review.[1] This is especially true of the acts of officials which are administrative in character, for these are subject to the strictest judicial control.[2]

The supreme court is principally a court of review, with original jurisdiction in certain matters. In 1921, two hundred forty-one cases were handled by the highest state court.[3] Of this number only sixteen cases originated in the supreme court. Twenty-seven cases were appealed from the county courts; and two hundred twenty-eight, from the district courts. Seventy-one decisions of lower courts were reversed. While no cases were appealed from the state court to the federal courts, in fifteen of the cases, the constitutionality of law according to the state constitution was the issue. In addition to the consideration of cases appealed to or originated in the court, various writs were issued: writs of review to the public utilities commission, three; injunction, one; mandamus, one; certiorari, two; and others relative to prohibition enforcement, nine.

The work here indicated was so burdensome, that, although the court was in continuous session throughout the year, with the exception of two months in the summer, only a minority of the cases which were filed with the court were acted upon. In fact, the court is from a year to fifteen months behind the docket.

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1 A. N. Holcombe, State Government in the United States (1916), pp. 381 - 384.

2 Kimball, op. cit., p. 303.

3 The date used was reported by the clerk of the supreme court.

The work of one district court suggests the conditions existing in the fourteen district courts of the state.[1] During the year of 1921, four hundred seventy-five civil and one hundred ninety-three criminal cases were filed with the court. Three per cent. of the work of the court was the consideration of cases of appeal from the county court. Since the district court docket is usually cleared during the year, the work mentioned is the accomplishment of the court for one year.

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1 The data used was secured from the clerk of the district court of the Eighth Judicial District.

CHAPTER IX

STATE FINANCE

Importance of the Subject

No feature of state government is a subject of greater importance, nor of more controversy, than state finance. All government is functioning to a greater degree in the activities of the community; consequently, the cost of service has increased. Each session of the legislature has added to the functions of the state; while the assessed valuation of property has not been increased correspondingly. The costs of state governments in the United States have grown pronouncedly during more than a decade. Between 1903 and 1913, the increase was 106 per cent.; and during the following half decade, 52.5 per cent.[1] In Colorado the increase in expenditures for state purposes increased between 1913 and 1920 approximately 300 per cent.[2]

While the activities of the state government of Colorado have been extended, the method of administering state finance has not improved in efficiency or economy. Effort has been made to revise the methods of financial control through an investigation by a committee on economy and efficiency and by the introduction of a budget system. Since the one has not had time to develop and the report of the other has received little attention, mention of these efforts is made merely to show that there has been interest in the problems of state finance.

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1 E. Kimball, State and Municipal Government (1922), p. 230. In these percentages the relative purchasing power of the dollar is disregarded.

2 Report on the Revenue System of Colorado, Survey Committee of State Affairs of Colorado (1916), p. 12; Biennial Report of State Treasurer (1920), p. 6.

SECTION III

FIELD TESTS

Importance of the Subject

[illegible] To devices of state government is a matter of grave importance, [illegible] of more accuracy, than state finance. If government is functioning [illegible] to a greater degree in the activities of the economic enterprise, the [illegible] of society, the best of service has increased. Most devices of the legislature [illegible] are added to the Constitution of the state; while the technical efficiency [illegible] of society has not been increased correspondingly. The merits of state [illegible] government is in the United States have been [illegible] [illegible] a decade. Between 1920 and 1940, the increase was 324 per cent; [illegible] during the following half decade, 414 per cent. To [illegible] the [illegible] in expenditures for state purposes for [illegible] [illegible] 1940 and 1945 was approximately 242 per cent.

Since the activities of the state government of Illinois have [illegible] [illegible], the method of administrative state finance has not [illegible] [illegible] in efficiency or economy. Efforts have been made to review the [illegible] of financial control through an investigation by a committee [illegible] economy and efficiency and by the introduction of a budget system. [illegible] has not had time to develop and the report of the committee [illegible] received little attention. Whether or these efforts to work [illegible] [illegible] that there has been interest in the problems of state finance.

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1 E. Kemmerer, State and Municipal Investment (1941), p. 20. [illegible] shows percentages the relative purchasing power of the dollar is [illegible] [illegible].

2 Report on the Revenue Needs of Illinois, Survey Commission of [illegible] Activity of Municipal (1941), p. 3-4; Minutes of Meeting of [illegible] Commission (1941), p. 4.

State finance may be resolved, for convenience, into the three divisions: revenue, expenditure, and indebtedness. The subject of revenue includes taxation and the allied sources of income of the state government. Expenditure involves not only the appropriation of money for state purposes but also the legislative methods by which the finances are managed. The third phase of state finance is the power to borrow and to incur indebtedness.

State Revenues

The revenues of the state are derived from many sources. The following summary of revenue receipts presents the amounts received by direct taxation, fees, and other sources.[1]

Sources of Revenue	Amount	Percentage
General tax from county treasurers	$9,066,744	41.49
Public lands, sales, rentals, etc	3,130,319	14.33
Inheritance tax	1,294,305	5.92
Government of U. S. (roads, forest reserve)	1,162,486	5.32
General departmental revenues	5,116,953	23.40
State institutions	957,552	4.32
Interest (bank deposits, bonds)	619,937	2.84
Sale of bonds, certificates, loans repaid	400,760	1.84
Fines, escheats	59,743	0.28
Miscellaneous	56,611	0.26

The General Property Tax

While the state secures its revenue from a variety of sources, the most important is the tax on property, both real and personal. Large sums are realized from licenses and fees, from the inheritance tax, and from rich endowment of land. In recent years, the aggregate of

1 Biennial Report of State Auditor (1920), p. 12.

This finance may be required, for emergencies, into the three [illegible]: persons, expenditure, and indebtedness. The subject of persons includes taxation and the civil service of large of the state government. Expenditure includes not only the appropriation of money the state government but also the legislative measure by which the financial [illegible] is enacted. The total place of state finance in the power to borrow and to incur indebtedness.

State Revenue

The revenue of the state was derived from only sources. The [illegible] amount of revenue results requires the exercise-receipts by [illegible] taxation, fees, and other sources.[1]

Source of Revenue	Amount	Percentage
General tax from direct taxpayment	[illegible]	[illegible]
Sales taxes, motor, vehicle, etc.	[illegible]	[illegible]
Court fees	[illegible]	[illegible]
Interest of S. S. funds, trust reserve	[illegible]	[illegible]
Income department revenue	[illegible]	[illegible]
State institutions	[illegible]	[illegible]
Interest from deposits, banks	[illegible]	[illegible]
Sale of lands, specifications, taxes repaid	[illegible]	[illegible]
Fees, commissions	[illegible]	[illegible]
Miscellaneous	[illegible]	[illegible]

The General Property Tax

While the state receives its revenue from a variety of sources, the work involved is the tax on property, but still not personal. Taxes are realized from timber and land. From the information for the fiscal year ending of land. In recent years, the expenses of

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1. Biennial Report of State Auditor (1940), p. 14.

these has been greater than the receipts from the general property tax. Still the general property tax has remained the basis of the revenue system. It has continued the elastic element by which the income of the state could be increased or decreased to meet the fiscal needs.

The general assembly is authorized by the constitution to provide for an annual tax sufficient, with other resources, to defray the estimated expenses of the state.[1] The tax is levied upon a just valuation of all property, real and personal, assessed the first day of April of each year by the county assessors.[2] Since 1913 the valuation of property for the purpose of taxation has legally been at full market value.[3] Due to the practise of assessors to undervalue, the assessed valuations of counties has been, on a general average, about thirty-five per cent. of actual values.[4]

Upon the county assessor rests the responsibility of determining valuations on which all taxes are levied.[5] The difficulties under which he works are many. The proportion of the state expenditures which any county pays is dependent upon the assessed valuation of the county; consequently, the practise of competitive undervaluation has been adopted by the county assessors.[6] To prevent these unfair practises, the constitution provides for a board of equaliza-

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1 Art. X, Sec. 2.
2 Mills Annotated Statutes, Sec. 6230, and Budget Procedure (1916), Survey Committee of State Affairs, p. 25.
3 Session Laws of 1913, Chapter 137.
4 Report on a Study of State Finances.
5 See Chapter XI.
6 Report on Study of State Finances and Budget Procedure, p. 25.

[illegible]

[illegible]

[illegible]

tion, consisting of the governor, auditor, treasurer, secretary of state, and attorney general, which reviews the assessments of property of the several counties. The board may raise or lower the valuation of both real and personal property, and of any item of the various classes of property.[1] For this purpose the board meets the first Monday in October. In the process of equalization of assessments, the board may change the aggregate valuation of a county, but not in excess of ten per cent.[2] The board, in no case, has the power of original assessment.[3]

Although the state board apparently was vested with ample powers to equalize the assessments of the counties, such legal obstacles were imposed that it failed to function. The supreme court of the state rendered decisions which declared it unconstitutional for the board to increase the aggregate valuation of the counties or to increase the valuations of classes of property in the counties.[4] After these discouragements the board ceased to attempt to equalize assessments. It was not until after the establishment of the state tax commission that the state board of equalization was empowered to really function. By an amendment to the constitution in 1914, the board was authorized "to equalize to the end that all taxable property in the state shall be assessed at full cash value."[5] In accord with this amendment the court declared that the power of the board

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1 Art. X, Sec. 15.
2 Mills Annotated Statutes, Sec. 6347-6348.
3 Constitution of Colorado, Art. X, Sec. 15; Murray v. Washington County Commissioners, 67 Colo., 14.
4 People ex rel. Crawford v. Lathrop, 3 Colo., 428; People v. Ames, 27 Colo., 346.
5 Art. X, Sec. 15.

[illegible] manufacturing or the producer, maltster, innkeeper, secretary of state, and attorney general, which involve the administration of laws of the several counties. The board may raise or lower the valuation of both real and personal property, and of any item of the various classes of property.[1] For this purpose the board sends the state equalizer to Oakdale. In the phrasing of equalization of assessments, the board may change the individual valuation of a county, but not in relation to the rest.[2] The board, in its case, has the power of original assessment.[3]

Although the state board apparently was vested with wide powers in equalize the assessment of the counties, such legal authorities were inclined thus it fitted to function. The supreme court of the state rendered decisions which declared it unconstitutional for the board to increase the aggregate valuation of the counties or to increase the valuations of classes of property in the counties. Thus their discretionary the board seemed to attempt to equalize assessments. It was not until after the establishment of the state association that the state board of equalization was empowered to verify functions. By an amendment to the constitution in 1924, the board was authorized "to equalize to the end that all taxable property in the state shall be assessed at full and true value."[4] In general, it is considered the most helpful to of the power of the board

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1 Ibid. E. Sec. IX.
2 Write, Municipal Statistics. Sec. [illegible].
3 Bulletin of Statistics. Vol. 2, Sec. 14; Bureau I. Taxation [illegible] Commissioners, 47 vols., 1e.
4 Results of 1921. Bureau I. Taxation, 8 vols., 1921; Bureau I. Taxation, 27 vols., 1926.
5 Ibid. E. Sec. IX.

of equalization to increase counties by classes and items of property was established.[1]

With the establishment of the tax commission, however, the chief reason for the existence of the board of equalization was set aside. In 1911 a tax commission, composed of three members, appointed by the governor and treasurer, for a term of six years, was created by legislative enactment.[2] Whatever authority the commission has, it functions subject to the direction and approval of the board of equalization.[3] Under this limitation, it exercises general supervision over the assessment, the levying and the collection of taxes. In the performance of this duty, the commission investigates the work and methods of the county assessors, the boards of county commissioners, the county boards of equalization, and the county treasurers. Whenever, in the opinion of the commission, the assessment of property fails in justice and uniformity, a re-appraisement by special appraisers may be ordered in any district. Any assessment may be raised or lowered after a hearing has been granted. In the exercise of its authority, the commission is authorized to summon assessors and to examine assessment rolls, for the purpose of adjusting inequalities. That the greatest degree of co-operation may be secured, an annual meeting of the county assessors is called to discuss the problems of the local officials and secure harmony of action. As a further pro-

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1 People ex rel. Colorado Tax Commission et al. v. Pitcher, 156 Pacific 812.

2 Mills Annotated Statutes, Sec. 6294, 6296. By amendment to the constitution (1918), Art. XII, Sec. 13, the members of the commission came under the classified civil service of the state.

3 Ibid., Sec. 6294.

tection of the public interests, the tax commissioners are authorized to appear in any court and to be heard in any proceedings in which an abatement or refunding of taxes is sought.[1]

In addition to the supervision of local assessments and the equalization of assessments among the counties, the tax commission makes the original assessment of certain specified properties. Before the establishment of the tax commission, the state board of equalization assessed the valuation of railroads, telegraph and telephone companies, express, sleeping car and private car lines.[2] The legislature transferred to the commission "all powers of original assessment of public utility corporations with other statutory powers, duties and privileges now exercised by the state board of equalization."[3] This function imposes on the commission a considerable burden. Difficult problems are presented, and the difficulties are not decreased by the skilled tax agents who are employed by the concerns to present the company claims.[4] The law provides no principles to apply in making the assessment, except the general provision that all property is to be assessed at full cash value. The importance of this phase of the work of the commission is suggested by the assessment of the corporations of the several counties as compared with the other property assessed by the county assessors. Of a total valuation of all

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1 Ibid., Sec. 6306.

2 Ibid., Sec. 6331.

3 Session Laws of 1913, p. 525. The act defined "public utility" so as to include also power companies, pipe line companies, water companies, street railway company, gas company, lighting company, and heating company.

4 Fifth Annual Report of Colorado Tax Commission (1916), p. 68.

property, in 1920, of $1,590,267,667, the valuation of corporations by the commission was $227,454,190.[1]

Other functions of the tax commission, which are of secondary importance, include the control over abatements, rebates, and refunds. The legislature provided in 1913 that all petitions before being granted, must be approved by the commission. This additional authority was necessary to prevent local boards of equalization from undoing the work of the commission.[2] At the same time that the powers of the commission were extended over rebates, the legislature placed upon that body the responsibility of investigating and of approving or disapproving the petitions of taxing districts for permission to increase their tax levies beyond certain statutory limits.[3] A further duty imposed on the commission is to give assistance to the state board of equalization in making the state tax levy. This co-operation has developed on account of the failure of the legislature to fix definitely this function upon either the board or the commission.[4]

After the assessment roll has been prepared by the assessor of the county and before it is presented to the state tax commission, it is submitted to the board of county commissioners which sits as a board of equalization. This board does not have authority to materially change the work of the assessor except as incidental to equalization. It does for the county and the school districts a service similar to that performed for the state by the tax commission and the

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1 Ibid., pp. 92-93. The valuations which were certified to the state board of equalization were sustained with four exceptions. Three corporations were reduced and one increased, a reduction of $700,400 in the total assessment of corporations.

2 Ibid., p. 72

3 Ibid., p. 72.

4 Ibid., p. 73.

[illegible]overy. In 1960, of $1,880,197,[illegible], the valuation of motorcycles [illegible] for the assessment was $[illegible],[illegible],100.

Other functions of the tax commission, which are of secondary importance, include the control over chauffeurs, vehicles, and motors. The legislature provided in 1921 that all vehicles before being operated, must be registered by the commission. This additional concurrently was necessary to prevent local boards of equalization from making [illegible] of the commission. In the same line that the powers of the commission were extended over others, the legislature placed upon this body the responsibility of investigating and of supervising as itself concerning the problems of taxing districts for commission to increase their tax levies beyond certain statutory limits. A further duty imposed on the commission is to give assistance to the state board of equalization in making the state tax levy. This co-operation has imposed on account of the failure of the legislature to vide definitely this function upon either the board or the commission.

After the assessment roll has been prepared by the assessor of the county and before it is presented to the state tax commission, it is submitted to the board of county commissioners which sits as a board of equalization. This board does not have authority to materially change the work of the assessor except on complaint to equalize values. It does for the county and the school districts a service similar to that performed for the state by the tax commission and the

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1 Ibid., pp. 69-70. The valuations which were arrived at by the state board of equalization were considerably lower everywhere. Their estimations were reduced all the increased, a tendency of [illegible] in the total assessment of properties.

2 Ibid., p. 74.

3 Ibid., p. 75.

4 Ibid., p. 77.

state board of equalization; that is, it determines tax rates and certifies the amounts to the assessor.[1]

When the assessment of the general property of the state, real and personal, has been made, and when the state tax levy has been determined by the state board of equalization acting in conjunction with the state tax commission, the amount of the state levy is certified to the county assessors.[2] They in turn deliver the tax list to the county treasurers, together with the tax warrant, setting forth the assessment roll with taxes extended; and the treasurers are commanded to collect the taxes.[3] That portion of the taxes which properly belong to the state government is turned over to the state treasurer.

In the whole procedure of securing revenues for the state government, the interests of the people are safeguarded by the constitution. The amount of tax which may be levied by the general assembly is limited to the estimated expenses for the fiscal year.[4] Any measures for raising revenue necessarily originate in the lower house of the legislature; but the senate may propose amendments, as in the case of other bills.[5] The taxes which are levied must be uniform upon the same class of subjects and must be levied and collected under general laws, which provide a just valuation for taxation of all property. An exemption of personal property of every person who is the head of a family of the value of two hundred dollars is made.[6] The most effec-

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1 Ibid., Sec. 6351-2, 6370.
2 Mills Annotated Statutes, Sec. 6350.
3 Ibid., 6381.
4 Constitution of Colorado, Art. X, Sec. 2.
5 Ibid., Art. V, Sec. 31.
6 Ibid., Art. X, Sec. 3.

[illegible] [illegible] of equalization will [illegible] [illegible] [illegible]

tive safeguard against reckless methods of taxation is to be found in the definite limitation placed on the rate of taxation for state purposes: four mills on each dollar of valuation is the maximum rate.[1] In 1920, in response to the need for larger revenues for the state educational institutions, by an initiated measure, the constitution was amended to allow the general assembly to make an additional levy of not to exceed one mill. It was specifically stated that the levy should never exceed five mills on the dollar.[2]

The effort is made to discourage favors being granted to corporate interests. All the corporations doing business in the state are subject to taxation on the real and personal property owned or used by them within the state.[3] This power to tax corporations and corporate property, the constitution states, "shall never be relinquished or suspended."[4]

The authority of the taxing power is limited further in that the property, real and personal, of the state or any subdivision of the state is exempt from taxation. Similar exemption extends to the property used for religious, educational, and charitable purposes, and some other from which private profit is not derived.[5] The property of the federal government is exempt also from state taxation. The exemption applies, whether the property is in the form of land, buildings, or securities held by individuals. An early court decision

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1 Ibid., Art. X, Sec. 3.
2 Session Laws of 1921, p. 179.
3 Constitution of Colorado, Art. X, Sec. 10.
4 Art. X, Sec. 9.
5 Ibid., Art. X, Sec. 4 - 5.

[illegible] advanced against religious methods of morality is to be found in the Marxian implicitly stated as the rule of behavior for state power: "Over wills on such behalf of religion is the morbid rule."[illegible] In [illegible] in response to the need for larger revenue for the vast educational institutions, by an imperial edicts, the constitution has needed to allow the general assembly to make an additional levy of not to exceed one mill. It was specifically stated that the levy should never exceed five mills on the dollar.

The effect is such to discourage future taxing plans to many worthy interests. All the corporations doing business in the state are subject to taxation on the sum and personal property owned or used by them within the state. This power is too comprehensive and burdensome, the constitution states, "which never be relinquished or suspended."[illegible]

The authority of the taxing power is limited therefore in that the property, real and personal, of the state or any subdivision of the state is exempt from taxation. Taxing exemption extends to the property used for religious, educational, and charitable purposes, and also also from state property is not taxable. The property of the federal government is exempt also from state taxation. The exemption section, whether the property is in the form of land, buildings, or securities held by institutions. As early court decision

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1 Ibid., Art. I, Sec. 7.
2 Revision Code of 1905, p. 212.
3 Constitution of Colorado, Art. X, Sec. 32.
4 Ibid., Sec. 2.
5 Ibid., Art. X, Sec. 4 - 8.

exempted from taxation all the instrumentalities of the federal government, when the levying of the tax might interfere with the purpose for which that instrumentality was created. Thus federal corporations are subject to taxation; but the incomes which citizens of a state derive from the federal government are exempt from state taxation.[1]

The Inheritance Tax

The inheritance tax is a substantial source of revenue of the state. During the biennial period of 1919 and 1920, it yielded approximately one million three hundred thousand dollars.[2]

The inheritance tax law provides that the transfer of any property, real or personal, or any interest therein, to any person, institution, or corporation, is taxable. The law is applicable in cases in which the property, located in the state, is transferred by either a resident or a non-resident, by will or intestate laws of the state. When a transfer has been made within one year of death, without adequate consideration, it is considered to have been made in contemplation of death and it is taxable.[3]

The progressive principle of increasing the rate of taxation as the amount of inheritance increases is employed. The rate of taxation depends also upon the degree of relationship. Transfers of property are grouped into four classes, dependent upon the degree of relationship.[4] In the first class, the transfer is to a father,

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1 Everett Kimball, op. cit., p. 229.
2 Biennial Report of the Treasurer (1919-1920), p. 7.
3 Inheritance Tax Law of Colorado (1921 , printed by authority of Inheritance Tax Department), pp. 6-7.
4 Ibid., pp. 8-12.

emerged from beneath all the instrumentalities of the federal government, when the barring of the bar which inherited with the particular for which such instrumentality was created. Thus federal corporations are subject to taxation; but the income which citizens of a state derive from the federal government are exempt from state taxation.[1]

The Inheritance Tax

The inheritance tax is a substantial source of revenue of the state. During the biennial period of 1933 and 1934, it yielded approximately one million three hundred thousand dollars.

The inheritance tax law provides that the transfer of any property, real or personal, or any interest therein, to any person, institution, or corporation, is taxable. The law is applicable to cases in which the property, located in the state, is transferred by either a resident or a non-resident. By gift or inheritance laws of the state. When a transfer has been made which was made at date, with such adequate consideration, it is considered to have been made in contemplation of death and it is taxable.

The progressive principle of increasing the rate of taxation as the amount of inheritance increases is employed. The rate of taxation depends also upon the degree of relationship. Transfers of property are grouped into five classes, depending upon the degree of relationship. In the first class, the transfer is to a father,

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1 Dobbins Bishop, op. cit., p. 219.
2 Biennial Report of the Treasurer (1933-1934), p. 7.
3 Inheritance Tax Law of Colorado (1933), printed by authority of Inheritance Tax Department, p. 1-7.
4 Ibid., pp. 6-11.

mother, husband, wife, child, or adopted child, or any lineal descendant of the same; and the rate varies from two per cent. on amounts up to one hundred thousand dollars to seven per cent. on amounts over five hundred thousand dollars. Exemptions are allowed of twenty thousand dollars in the case of a widow and ten thousand dollars in all other cases. In the second class, the transfer is to the wife or widow of a son, the husband or widower of a daughter, a grandfather or grandmother, a brother or sister; and the rate varies from three per cent. on amounts up to ten thousand dollars to ten per cent. on amounts over five hundred thousand dollars. An exemption of two thousand dollars is allowed in each case. In the third class, the transfer is to an uncle or aunt, a nephew or neice, or any of their lineal descendants; and the rate varies from four per cent. on amounts up to five hundred dollars to fourteen per cent. on amounts over five hundred thousand dollars. There is no tax on amounts under five hundred dollars. In the fourth class, the transfer is to any other person; and the rate varies from seven per cent. on amounts up to five thousand dollars to sixteen per cent. on amounts over five thousand dollars. There is no tax on amounts under five hundred dollars.

When property is transferred to the state, a county, city, or town, it is exempt from the inheritance tax. Similar exemption applies in cases of transfer for the use of public libraries, for religious or charitable purposes, or for schools and colleges not conducted for profit; provided, that the same be situated within this

state, or the property be limited for use within this state.[1]

The administration of the law is provided by the creation of the office of inheritance tax commissioner, which is filled by appointment, by the attorney general, of an assistant who is a special representative of the attorney general in all matters connected with the administration and enforcement of the act. The commissioner is authorized to appoint two deputy commissioners, two appraisers, and other necessary assistants to perform the duties of the office.[2] The county court of the county which functions for general probate purposes has jurisdiction over all questions in relation to the tax arising under the law.

It is the uty of the inheritance tax commissioner to appraise the estates of deceased persons which are in the process of administration. Report of the appraisal is made to the county court and to the attorney general. From the report the county court fixes the cash value of the estate and of the interest in it passing to each person under the will and the tax to which the same is liable. Appeal to the district court by dissatisfied parties is permitted.[3] After all the preliminaries have been given proper attention, the county court orders the payment of the tax by the administrator or executor to the state treasurer, who places it in the general state fund.[4]

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1 Ibid., p. 13; People v. Koenig, 37 Colo., 283.
2 Inheritance Tax Law of Colorado, p. 19.
3 Ibid., pp. 20 - 22.
4 Ibid., p. 16.

[illegible], in the property in limited for one which this rule.[1]

The administration of the law is provided by the establishment of the office of Inspector-General, which is filled by appointment, by the attorney general, of an officer who is a special representative of the attorney general in all matters connected with the administration and enforcement of the law. The commissioner is authorized to appoint the deputy commissioner, the supervisors, and other necessary assistants to perform the duties of the office.[2] The deputy chief of the country which, therefore the general problem proposed the prohibition were all questions of relative in the law relating after the law.

It is the duty of the inspector-for commissioner to provide the private of deserved persons of law or to the possession of qualifications. Report of the specimen is made in the county court and to the attorney general. Then the report the county where state the [illegible] value of the whole jug of the informer is in proving to such person under the will and the for to which the beer to [illegible].[3] Actual the district court by disciplinary points is punished. After all the violations have been taken proper attention, the county court shall the payment of the jug by the administrator or complaint [illegible] this business, one gives it to the general state that.[4]

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1. [illegible], p. 24; Jungle v. Ellwin, 87 Ind., 328.
2. Inspections for Year of Commerce, p. 18.
3. [illegible], pp. 20 - 23.
4. [illegible], p. 14.

This form of tax has many arguments in its favor. It is comparatively easy to collect, it falls upon the people who are most able to pay it, and it permits the state to derive a revenue from intangible personal property which generally escapes the regular property tax.[1] It is held also that the inheritance tax is not a tax on property but on the power or right of transmitting or receiving property by will or descent, that the succession of the thing is the subject of the tax.[2] And it is further argued that, since the recipient of an inheritance does not render any service to the state, it is proper for the state to impose the special tax on him, as a condition on which the title to property passes on the death of the owner.[3] The chief argument against the tax is that it is a tax on capital and tends to withdraw capital from private enterprise and to devote it to non-productive purposes.[4]

The Public Lands

Under the Enabling Act, Congress granted to the state of Colorado one-eighteenth of the land the income from which should be used for the support of the public schools. Other allotments by Congress have been made,[5] so that land is held by the state under the following grants:

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1 Less than five per cent. of the intangible property of the state, such as money, notes, bonds, credits, accounts, securities, and other evidence of indebtedness, was assessed for the purpose of taxation in 1921. H. S. Hadley, "A State Income Tax for Colorado", Colorado School Journal, April 1922.

2 In re Mackey's Estate, 46 Colo., 49; People v. Palmer's Estate, 25 Colo., App. 450.

3 In re House Bill No. 122, 32 Colo., 527.

4 Report on the Revenue System of Colorado, pp. 20 - 21.

5 Atlas showing state lands of Colorado (1920), issued by the State Board of Land Commissioners.

[illegible]

Common schools	3,685,618 acres
Internal improvements	500,000 acres
University	46,080 acres
Public buildings	32,000 acres
Penitentiaries	32,000 acres
Agricultural college	90,000 acres
Saline (salt springs and adjacent lands)	46,080 acres
Total	4,431,778 acres

Returns from sales and leases of these lands are placed in funds of the same name. The interest derived from them is used for the purposes indicated. The income from the internal improvement fund is used for the construction and maintenance of roads; and that from the the saline fund is subject to the disposal of the legislature. The receipts from these grants of lands are indicated by the following statement:[1]

Common schools	
Permanent fund	$1,579,269
Land income	1,658,004
Internal improvement	
Permanent fund	393,216
Land income	120,212
University	
Permanent fund	4,691
Land income	5,763
Public buildings	
Permanent fund	1,071
Land income	1,440
Penitentiaries	
Permanent fund	1,406

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1 Biennial Report, Treasurer of Colorado (1920). The amounts are for the two-year period ending November 30, 1920. Although the amounts include some transfers, they are approximately correct.

Power matrix	$5,[illegible]$ acres
Internal improvements	[illegible] acres
Irrigation	[illegible] acres
Public buildings	[illegible] acres
Institutions	[illegible] acres
Educational matters	[illegible] acres
Active duty members not enlisted	
Lands	[illegible] acres
Total	[illegible] acres

Balances from sales and leases of these lands are placed in funds of the same name. The interest derived from them is used for the purpose indicated. The income from the rights improvement fund is used for the maintenance and enlargement of quality and high flow of the water that is subject to the disposal of the legislature. The receipts from these funds of lands are indicated by the following statement:

Power matrix

Permanent fund	[illegible]
Land income	[illegible]

Internal improvements

Permanent fund	[illegible]
Land income	[illegible]

Irrigation

Permanent fund	[illegible]
Land income	[illegible]

Public buildings

Permanent fund	[illegible]
Land income	[illegible]

Institutions

Permanent fund	[illegible]

[illegible] A. Stewart Grant, Commissioner of Schools (Idaho). The monthly [illegible] for the biennial period ending December 30, 1920. Children's [illegible] monthly records [illegible] Idaho, they are approximately accurate.

Land income.....	$ 2,809
Agricultural college	
Permanent fund.....	42,360
Land income.....	39,551
Saline Land income.....	1,736
Total.....	$3,851,528[1]

Other Sources of Revenue

From the three sources of revenue already discussed more than sixty per cent. of the total income of the state is derived. Of the other nearly forty per cent., more than one-half is secured through departmental activities. The remainder is accumulated from a variety of sources.[2]

A source of revenue which is used by many states to secure large returns is almost entirely neglected in Colorado. The property of the corporations is assessed and pays taxes as other property within the jurisdiction of the state government. When a business is incorporated a fee of twenty dollars is collected, by the state, from corporations whose capital is fifty thousand dollars or less, and twenty cents for each additional thousand dollars.[3] The only real corporation tax, collected as a special tax on corporations, is levied under a law enacted in 1917 to provide a sinking fund to make the payments on the national defense bond issue. On each corporation having a capitalization of one hundred thousand dollars, a tax of ten dollars is levied annually, and ten cents on each additional thousand.[4] By this method only the

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1 This represents nearly eighteen per cent. of the total revenue for the biennial period.
2 See summary, p. 197.
3 Mills Annotated Statutes, Sec. 1038.
4 Session Laws of 1917, pp. 22 - 25.

Local income.....	[illegible]
Equalization aids:	
Basic aid.....	[illegible]
Local income.....	[illegible]
Allow local income.....	[illegible]
Total.....	[illegible]

Other Sources of Income

Then the three sources of revenue already discussed must yield [illegible] per year. If the total income of the state is [illegible] [illegible] nearly forty per year., some [illegible] non-tax is required [illegible] governmental activities. The remainder is generated from a variety of sources.

A source of revenue which is used by most states to secure large [illegible] is almost entirely neglected in Colorado. The property of the corporations is exempt and yet there seem no other property which the municipalities of the state possess. When a business is incorporated [illegible] of twenty-million is initiated, by the state. Then corporations which capital is fifty thousand dollars or less, are merely asked for such additional thousand dollars. The only real corporations tax, [illegible] as a special tax on corporations, is levied under a law [illegible] to tax [illegible] dollars is made the equivalent of the [illegible] local taxes. The main corporation having a capitalization of [illegible] thousand dollars, a tax of ten dollars is levied annually, and has [illegible] additional thousand. By this method only the

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1. This corresponds nearly eighteen per cent, of the total revenue for the biennial period.
2. See summary, p. [illegible]
3. Public Constitutional Conference, Doc. [illegible]
4. Revenue laws of 1913, [illegible] p. [illegible] - [illegible].

tangible property, which in many instances constitutes the smallest part of the assets of the corporation, is reached for taxation; and the intangible property escapes. In 1920 less than fourteen per cent. of the general property tax was paid by the corporations whose property was assessed by the tax commission.[1]

The steadily increasing cost of state government has made it necessary to increase the amounts derived from the old sources, and, at the same time, to devise new ones. In 1921 the people of the state paid in taxes more than double the amount paid in 1913, the first year under the present taxation laws.[2] Some of the additional sources of revenue are derived from the industries carried on in penal institutions, automobile licenses, and a tax of one cent a gallon on the sale of gasoline.[3]

As a corrective of the defects in the methods of taxation and as a means of gaining larger revenues, a state income tax is proposed. This, it is thought, would distribute the burden of taxation more equitably; and, it would relieve the farmers and home owners of excessive taxation.[4]

Appropriations and Expenditures

The methods of procedure in expending the funds of the state, like those of the majority of the states, have been open to much criticism. The distribution of the revenues has not been based upon sound

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1 Ninth Annual Report of Colorado Tax Commission, pp. 92 - 93.

2 H. S. Hadley, loc. cit., p. 10.

3 Biennial Report of Auditor of the State of Colorado, pp. 5, 8.

4 A movement directed toward securing reform in methods of taxation has been pronounced during 1921 and 1922. Farmers' organizations have been especially active. Other organized effort has been directed rather indiscriminately toward economy in government expenditures.

principles of finance but upon haphazard practises.

The following summary of state expenditures shows for what purposes the state money is spent:[1]

Summary of expenditures	Amount	Percentages
Legislative	$ 204,893	1.04
Judiciary	320,928	1.63
Executive		
General administration	4,003,067	20.36
Public works	5,004,395	25.35
Education	3,992,220	20.18
Care of dependents, delinquents and defectives	2,884,714	14.67
Military	553,651	2.81
Bond issue	2,343,061	11.87
Miscellaneous	461,782	2.39

In determing these amounts, the personal interests of officials and the competitive programs of departments have been recognized. Each official is inclined to enlarge upon the importance of his particular service and to request large appropriations for his department. The general plan of procedure has been arranged by constitutional provisions. The responsibility for the preparation of the informal budget has been placed upon the governor. At the commencement of each session of the legislature the governor is required to give to it information concerning the condition of the state and to recommend such measures as he deems expedient. At the same time he is required to present estimates of the amount of money required to be raised by taxation for all purposes of the state.[2] The information upon which this estimate is based

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1 Biennial Report of the State auditor (1920), p. 13.
2 Constitution of Colorado, Art. IV, Sec. 8

principles of finance but upon temporary practices.

The financial power of state governments stems from the state revenues the state moves in search:

Sources of appropriations	Amount	Percentage
Municipalities	[illegible]	[illegible]
Publicity	[illegible]	[illegible]
Commerce:		
Income administration	[illegible]	[illegible]
Public works	[illegible]	[illegible]
Education	[illegible]	[illegible]
Sale of municipal securities		
Land administration	[illegible]	[illegible]
Mining	[illegible]	[illegible]
Road improvement	[illegible]	[illegible]
Miscellaneous	[illegible]	[illegible]

In developing these sources, the personnel interests of officials in the administrative programme of departments have been overplayed. Our attention is inclined to exclude upon the importance of his particular service and to propose large appropriations for its maintenance. The general plan of procedure has been arranged by constitutional provisions. The responsibility for the preparation of the national budget has been placed upon the governor. In the commencement of each session of the legislature the governor is required to give to it information concerning the condition of the state and to recommend such measures as he deems expedient. In the same time he is required to present estimates of the amount of money required to be raised by taxation for all purposes of the state. The information upon which this activity is based

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1. Financial Speech of the State Institute (Cited), p. 17.
2. Constitution of Colorado: Art. IV, Sec. 9

is the reports from the other officials. The constitution authorizes the governor to require information in writing from all officers of the executive department on matters relating to their offices; and he may at any time require information from officers and managers of state institutions, upon any subject relating to the condition, management, and expenses of their respective offices and institutions.[1] By statute this section has been extended to include every appointive official and employee of any department, board, bureau, commission, or office of the state.[2] And the constitution further requires that biennial reports be made to the governor by the officers of the executive department and all public institutions of the state, at least twenty days preceeding each regular session of the legislature. This requirement has been modified by a statute which provides that all reports shall be in the hands of the governor not later than November fifteenth, next preceeding the session of the legislature.[4] More important possibly than the many reports which may be required by the governor to aid him in the preparation of an informal budget, there is the special report of the auditor. This official should have the most valuable information, since he is "the general accountant of the state and the keeper of all public account books, vouchers, documents, andpapers relating to the accounts and contracts of the state, and its revenues and debt, and fiscal affairs not required by law to be placed in some other office or kept by some other person."[5] The additional authority of the auditor

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1 Art. IV, Sec. 8.
2 Mills Annotated Statutes, Sec. 2708.
3 Art. IV, Sec. 16 - 17.
4 Mills Annotated Statutes, Sec. 5298.
5 Ibid., Sec. 5298.

[illegible]

[illegible]

to require every state and county public officer and employee "to keep all accounts of his office in the form prescribed and make all reports required" gives to him access to all information necessary in the making of a budget.[1]

With all this information at his command, the auditor is required "to digest, prepare, and report to the governor", at least twenty days preceding each regular session of the general assembly: (1) a detailed statement of the condition of the revenue and the amount of the expenditures for the two preceding years; (2) a detailed statement of the public debt; (3) estimates of the revenues and expenditures for the two succeeding fiscal years, and the probable amount of revenues receivable from the various sources of revenue; (4) plans for the support of public credit, for lessening the public expenses, for promoting economy and efficiency in the public offices, and for the better management generally of fiscal affairs of the state; (5) a statement showing the whole amount of each appropriation of money made by law, the amount expended, and the balance unexpended; and (6) a statement showing the amount of revenues chargeable to each county for the two preceding fiscal years, the aggregate amount of each object of taxation, and the balance due from each county.[2]

The legal provisions which have been enumerated appear to be sufficient to enable the governor to prepare a budget to submit to the

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1 Ibid., 5623.
2 Ibid., Sec. 2781.

legislature. The reports which are legally required of the state officials and heads of state institutions, however, comply only in part with the statutory requirements concerning the statements of expenditures and revenues. None of the statements shows in itemized form the purposes for which state money is expended.[1] The biennial report of the state auditor does not show more than general accounts of the revenues and expenditures of the preceding biennial period, with no attempt at estimates for the succeeding two-year period.[2] The reports of heads of departments and state institutions do not give adequate statements of the activities of the biennial period or satisfactory estimates of funds necessary to carry on their work for the succeeding period. When reports are in the possession of the legislature, they have less value than the personal influence of the heads of departments and of institutions upon the legislative committees to which bills are referred. It has become the practise for the general assembly to appoint a committee of its own members to visit the state institutions with a view to determining their needs, and to make recommendations to the general assembly. In a similar manner, information of the needs of the departments is gained by personal visits of members of the finance committee of the senate and the appropriations committee of the house.[3]

The result of these haphazard methods of procedure, together with the limitless number of bills which each member may introduce, has been the introduction of many financial measures, which have been passed,

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1 Report on a Study of State Finances and Budget Procedure (1916), prepared for the Survey Committee on state affairs, p. 12.

2 See auditor's report for 1919-1920.

3 Report on a Study of State Finances and Budget Procedure, pp. 12 - 13.

frequently without any adequate consideration, at the close of the session.[1] The final action on these measures is the approval or veto by the governor. His consideration of the large number of bills is, of necessity, hasty. Hence an appropriation measure may pass the legislature, and it may be approved by the governor, without adequate consideration as to its merits; likewise, desirable measures may be suppressed early in the legislative process.

The State Budget

It is obvious that the constitution of the state makes adequate provision for the adoption of a state budget system. By the constitution and by statute law, the governor is authorized to demand the information necessary to prepare a budget and to present it to the legislature. Since there is no specific reference to a budget in the most modern sense in which the term is used, the legislature in 1919 enacted a law which provided for a budget system of the commissioner type.[2]

According to the plan devised by the legislature, the governor is authorized, on or before November thirtieth in the year which precedes a session of the general assembly, to require from the head of each department, institution, and agency of the state government through which

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1 The passage of unimportant financial measures is encouraged by the partial removal of responsibility of members by a law of 1913. In case the available revenues of the state for any fiscal year are insufficient to meet all the appropriations, such appropriations are paid in the following order: (1) the ordinary expenses of the state departments, and interest on any public debt; (2) appropriations for all institutions, such as the penitentiary, insane asylum, wherein the inmates are confined involuntarily; (3) educational institutions; (4) any other officer, bureau, or board; (5) all other. Session Laws of 1913, pp. 37-38.

2 Session Laws of 1919, pp. 126 ff. The operation of the budget system during its first trial in 1921 was not satisfactory. Both the budget commissioner and members of the general assembly report that the plan was, for the most part, ignored by the legislative bodies.

frequently without any adequate consideration, at the close of the session.[1] The final action on these measures is the approval or veto by the governor. The examination of the large number of bills is, of necessity, hasty. Items of appropriation measures may pass the legislature, and it may be approved by the governor, without adequate consideration as to the [illegible]. Undesirable measures may be [illegible] easily in the legislative process.

THE STATE BUDGET

It is obvious that the constitution of the state makes adequate provision for the adoption of a state budget system. By the constitution and by statute law, the governor is authorized to submit the information necessary to prepare a budget and to present it to the legislature. While there is no specific reference to a budget in the constitution [illegible] the legislature [illegible] of the state, provided for a budget system of the commission type.[2]

According to the plan devised by the legislature, the governor is [illegible], as he becomes the budget authority. In the year which precedes a session of the general assembly, he requires from the head of each department, institution, and agency of the state government through which

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[1] The passage of extravagant financial measures is encouraged by [illegible]

[2] Session Laws of [illegible]

any of the state funds are disbursed, except the general assembly and the judicial department, an estimate of the appropriations necessary to meet their ordinary financial needs. When these reports are in the hands of the governor, he prepares the budget. As a part of the process he may hold public hearings to satisfy the factions interested in the budget. He also receives, and must include without revision, an itemized estimate of the needs of the two houses of the general assembly from the presiding officers and of the judicial department from the clerk of the state supreme court. In connection with the latter estimates, the governor may make such recommendations as he thinks proper.[1] On or before the fifteenth day of each session, the governor submits to the legislature a budget containing a complete plan of proposed expenditures and estimated revenues for financing the state government for the ensuing biennium. The budget contains the revised estimates and bills for all proposed appropriations, together with any measures of taxation which may be proposed by the governor. The budget includes also a statement of the assets, liabilities, reserves, and surpluses or deficits, in such form as to show the financial condition of the state.[2]

As soon as the communication from the governor is received, the bills which have been recommended by him are introduced. This list of bills includes the general appropriation bill which embraces appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the state, interest on the public debt, and for the public schools.[3] There is included in the list also the separate

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1 Ibid., pp. 126 - 127.
2 Ibid., p. 128.
3 Constitution of Colorado, Art. V, Sec. 32.

special bills for each of the other appropriations. During the time in which any bill is considered, the governor, auditor, heads of departments, and heads of institutions have the right to appear before, and to be heard by, the committee to which the bill has been assigned.[1]

To aid in the administration of the law and to perform the chief service in connection with the making of the budget, the legislature created the office of budget and efficiency commissioner. The one commissioner is appointed by the governor as one of the three confidential employees of the office of the chief executive.[2] The term of office is coterminous with that of the governor. The law requires that the commissioner's entire time be given to the duties of the office, which are designated by the following: (1) the custody of documents prepared by, or intrusted to, him; and (2) the preparation of the budget from the data reported by the various officials, supplemented by his studies and investigations.[3]

The advantages to be derived from such a plan are numerous. The committees of the legislature will be relieved of much executive work which now devolves upon them in connection with the finances of the state, thus giving them more time for their real legislative functions. Since the members are not fitted by training and experience to prepare a state budget, it may be more efficiently done by the special agent. At any rate, the legislature will be relieved of the compilation of data and the handling of estimates of expenditures and revenues upon which the appropriations are based. The new system will afford opportunity for a

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1 Session Laws of 1919, p. 128.
2 Constitution of Colorado, Art. XII, Sec. 13.
3 Session Laws of 1919, p. 129; Colorado's First State Budget (1921), p. 9.

[illegible] with the lack of the other circumstances. During the time in which our bill is considered, the previous, existing, basis of deposit, [illegible] and lack of institutions have the right to appear before, and be heard by, the committee to which the bill has been assigned.

The aim is the administration of the law and to perform the actual [illegible] in connection with the raising of the budget. The legislature [illegible] the office of budget and efficiency establishment. The one establishment is expected by the governor to one of the three certificate [illegible] employees of the office of the chief executive. The head of [illegible] is appointed with [illegible] of the governor. The law requires this [illegible] establishment's action then be given to the budget of the office. [illegible] are designated by the [illegible]: (1) the authority of [illegible] [illegible], or [illegible] by, this and (2) the [illegible] of the budget [illegible] has been prepared by the various officials, supplemented by the [illegible] and investigations.

The [illegible] to be derived from such a plan are numerous. The [illegible] of the legislature will be relieved of such [illegible] which are [illegible] open time in conjunction with the finances of the state, [illegible] giving them more time for their real legislative duties. Those [illegible] are not fitted by training and experience to improve a state budget, it may be more efficiently done by the special agent. It and [illegible], the legislature will be relieved of the evaluation of data and [illegible] the [illegible] of estimates of appropriations and revenues upon which the [illegible] are based. The law system will afford especially the [illegible]

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1. Senator Tuck of [illegible], p. 320.
2. [illegible] of [illegible], loc. cit. [illegible] 32.
3. Senator Tuck of [illegible], p. 320. Talcott's Short Ann. Budget [illegible], p. 2

more scientific study of the financial needs of the state in relation to its resources. It will tend to standardize the form and content of appropriation bills and establish a more effective control of expenditures. At the present time, it is difficult, if not impossible, to interpret the published reports so as to show the financial condition of any branch of government. And further the responsibility for financial legislation and for economical administration will be more clearly defined and established.

Public Indebtedness

The state of Colorado has incurred indebtedness chiefly on account of labor disturbances. No debt is reported until the year 1898, when insurrection bonds to an amount over two hundred thousand dollars were issued. Since that time, on different occasions, bonds have been issued for similar reasons. The last issue reported by the auditor of state was in 1917 to meet the needs of the state in connection with the Great War.[1] The following summary shows the general condition at present:[2]

		Par Value	Unpaid
Insurrection Bonds,	1897, 4 per cent.,	$223,000,	$ 17,000
Insurrection Bonds,	1909, 3 per cent.,	932,300,	932,300
Funding Bonds,	1910, 3 per cent.,	1,997,500,	1,997,500
Insurrection Bonds,	1914, 4 per cent.,	725,500,	725,500
National Defense Bonds	1917, 4½ per cent.,	1,015,000,	515,000
	Bonded Indebtedness...		....$4,187,300

The public holds only $418,200 of this total amount of bonded indebtedness; the balance is held in various state investment funds.[3]

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1 At the election in 1920, the voters of the state authorized the issuance of bonds to the amount of five million dollars for road construction purposes.

2 Biennial Report of State Treasurer (1920), p. 9.

3 Ibid., p. 6.

more scientific study of the financial needs of the state in relation to the resources. It will have to rationalize the flow and control of expenditures while and establish a more effective control of expenditures. At the present time, it is difficult, if not impossible, to interpret the published reports so as to view the financial position of any branch of government. And it also the responsibility of financial legislation and the financial administration will be more clearly defined and established.

Public Indebtedness

The state of Bulawah has incurred indebtedness mainly to meet its long expenses. Its debt is supported with the year 1957, when Innovation Bonds in an amount over two hundred thousand dollars were issued. Since that time, on different occasions, bonds have been issued for similar purposes. The last issue provided by the voters of the state was in 1972 to meet the needs of the state in connection with the Great War. The following summary shows the general condition of indebtedness:

	Due Date	Amount
Innovation Bonds, 1957, 4 per cent	1977	$ [illegible]
Innovation Bonds, 1962, 4 per cent	1982	[illegible]
Facility Bonds, 1966, 3 per cent	1986	[illegible]
Innovation Bonds, 1972, 4 per cent	1992	[illegible]
Military Service Bonds		
Bonds	1977 to year end	[illegible]
Total Indebtedness		[illegible]

The public holds only [illegible] of this total amount of bonded indebtedness; the balance is held in various state investment funds.

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1. In the election in 1970, the voters of the state authorized the issuance of bonds to the amount of two million dollars for road construction purposes.

2. Biennial Report of State Treasurer (1970), p. 9.

3. Ibid., p. 9.

To complete the total indebtedness of the state, there should be added certificates of indebtedness to the amount of $87,240.[1]

The amount of public indebtedness which may be incurred by the state is limited by the constitution. A debt by loan may be contracted to provide for casual deficiencies of revenue, to erect public buildings for the use of the state, to suppress insurrection, to defend the state, or, in time of war, to assist in defending the United States. The amount of debt contracted in any one year to provide for deficiencies of revenue is limited to one-fourth of one mill on each dollar of taxable property in the state; the debt incurred for the erection of public buildings is limited to one-half mill on each dollar. The aggregate amount of indebtedness for the stated purposes is, in each case, limited: for deficiencies of revenue, to three-fourths of a mill on each dollar of valuation; and for public buildings, to fifty-thousand dollars.[2] In addition to the amount of debt permitted for buildings for state purposes, further provision is made that a debt not exceeding three mills on the dollar of valuation may be incurred by law; provided the law be referred to the people and approved by a majority of the electors.[3]

To pay the principal and accrued interest of outstanding warrants issued between 1887 and 1897, authority was given by an amendment in 1910 to create, irrespective of the limitations, further debt by loan to an amount not exceeding $2,115,000.[4] Under this provision the funding bonds of 1910, to an amount of $1,997,500, were issued.

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1 Ibid., p. 6.
2 Constitution of Colorado, Art. XI, Sec. 3.
3 Ibid., Art. XI, Sec. 5.
4 Ibid., Art. XI, Sec. 3.

A further limitation on the state to incur indebtedness is imposed by the constitution. The debt can be created only by a law which cannot be repealed until the indebtedness is fully paid. It is required that the law specify the purposes for which the funds are raised, and provide for the levy of a tax sufficient to pay the interest and extinguish the principal of the debt within the time determined. In the case of debts contracted for the erection of public buildings and providing for deficiencies of revenue, the constitution provides for a period of not less than ten nor more than fifteen years.[1]

A special class of restrictions is concerned with laws which are for the benefit of a person or corporation. Neither the state nor any subdivision of the state is permitted to give financial aid, directly or indirectly, to any person, company, or corporation for any purpose. A similar prohibition extends to the holding of shares in a corporation and to owning property jointly with any person or corporation. An exception is made in the event the state obtains an interest in property by escheat, by forfeiture, or by other process of law.[2]

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1 Art. XI, Sec. 4.
2 Ibid., XI, Sec. 1-2.

CHAPTER X

THE STATE CIVIL SERVICE

In 1907 Colorado joined the small group of states which were actively interested in civil service reform legislation.[1] The legislature, at a subsequent session, amended the original act to complete certain features.[2] An initiated measure to amend the constitution relative to civil service was approved in 1918 by a vote of 75,301 for to 41,289 against.[3] In conforming to the constitutional requirement, the legislature of 1919 enacted a law which provided for the present program.[4]

Organization of the Commission

As provided in the constitution, the state civil service commission consists of three members appointed by the governor for overlapping terms of six years. The first appointees, it was arranged, should serve two, four, and six years, respectively. In making the appointments, the governor is limited to "persons of known devotion to the merit system."[5] The salary of each commissioner is fixed at three thousand dollars annually and expenses incurred in the performance of duty. In addition to the regular members of the commission, a secretary serves

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1 Session Laws of 1907, pp. 262 ff; J. M. Mathews, Principles of American State Administration (1920), p. 195.

2 Session Laws of 1915, pp. 143-154.

3 Session Laws of 1919, pp. 341 - 343.

4 Ibid., pp. 143 ff.

5 Constitution of Colorado, Art. XII, Sec. 13; Session Laws of 1919, p. 143.

CHAPTER X

THE BRIEF CIVIL SERVICE

In 1908 Kimmerly joined the small group of reformers who actively interested in civil service reform legislation. The legislature, at a subsequent session, revoked the original act to establish further reform. An initiated measure to amend the constitution relative to civil service was approved in 1911 by a vote of 75,000 to 63,000 majority. In conformity to the constitutional provisions, the legislature of 1913 enacted a law which repealed the former system.

Operation of the Commission

In practice in the association, the state civil service commission consists of three members appointed by the governor for overlapping terms of six years. The first commission, it was arranged, serves two, four, and six years, respectively. In making the appointments, the governor is limited to "persons of known devotion to the merit system." The salary of each commissioner is fixed at three thousand dollars annually and expenses incurred in the performance of duty. In addition to the regular members of the commission, a secretary serves

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1 Revision Laws of 1909, pp. 222 ff; A. M. Kettner, Initiative, Referendum, Constitutional Amendment, p. 129.
2 Revision Laws of 1909, pp. 124-126.
3 Revision Laws of 1909, pp. 311 - 322.
4 Ibid., pp. 326 ff.
5 Constitution of Oklahoma, Art. XIX, Sec. 2; Revision Laws of 1910, p. 242.

that body with an annual salary of twenty-four hundred dollars.[1] The office force includes also a clerk and stenographer.[2]

At the first meeting of the commission the organization is completed. One of the commissioners is selected to serve as president and the secretary, clerk, and stenographer are appointed. It is in their province also to formulate rules and regulations to carry out the spirit and intent of the constitutional provision and the laws enacted to execute it.[3]

The commission is authorized to conduct all competitive tests, to determine all cases of removal or discipline, to standardize all positions, and to determine the standards of efficient service. All grading of positions also is vested in the commissions. A roster of all the employees, including positions, duties, changes, and salaries, is kept in the office of the commission. The certification of pay-rolls by the commission is a requirement of the law, for "No person in the classified service shall be paid until a certificate is furnished by the Commission that the appointment has been made according to law."[4]

If the constitutional provision, the civil service law, or any rule which the commission makes is violated, four times the amount of any illegal payment may be recovered from any member of a board or officer signing or paying a warrant contrary to legal procedure.[5] The appointment to office or the selection of a person for employment con-

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1 Ibid., p. 143.
2 First Biennial Report of State Civil Service Commission (1919-1920), p. 2.
3 Ibid., pp. 3ff.
4 Ibid., pp. 4 - 5; Session Laws of 1919, p. 145.
5 Ibid., p. 146.

[illegible] with an annual salary of [illegible]-five hundred dollars.[1] The office force includes also a clerk and stenographer.

At the first meeting of the commission the expenditure is considered. One of the commissioners is selected to serve as president and the secretary, clerk, and stenographer are appointed.[2] It is in [illegible] provisions also to formulate rules and regulations to govern and the [illegible] and report of the unemployment problem, and the law empowers it to employ it.[3]

The commission is authorized to analyze all competitive jobs, to [illegible] all areas of employment or industries, to classify all positions, and to determine the standards of efficiency service. All qualifications of positions also is vested in the commission. A review of all the employed, including positions, duties, salaries, and salaries, is part of the duties of the commission. The availability of employing the commission is a requirement of the law, for "No person in the classified service shall be paid until a certificate is furnished by the Commission that the requirements have been duly complied with in the manner according to law."[4]

In the unemployment problem, the state employs law, or any [illegible] the commission rules is violated, for since the record of any client cannot be recovered from any member of a board of [illegible] employing agents or [illegible] a worker contrary to legal procedure.[5] The commission's action or the violation of a person for employment con-

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1. [illegible], p. 317.
2. [illegible] Commission Report of State Civil Service Commission (1938-[illegible]), p. [illegible].
3. [illegible], pp. 347.
4. [illegible], pp. 6 - 8; [illegible] of 1937, p. 319.
5. [illegible], p. 320.

trary to the civil service regulation is declared a misdemeanor and is punishable by a fine not to exceed one thousand dollars.[1] In making investigations, the commissioners may subpoena witnesses, administer oaths, compel the testimony of witnesses, and the production of books, paper, and records relevant to the inquiry. In other respects also the position of the commission is similar to that of a judicial body: the service of papers by officers, with compensation as is allowed by law in the district courts,[2] is allowed.

As an agent of the people performing a public service, the commission is required to keep records of its proceedings and of all examinations held by it. All records and documents filed with the commission are required to be kept as public records; and the record of proceedings and all eligible lists must be open to public inspection. A biennial report of the work, including all rules adopted, is made to the governor preceding each regular session of the general assembly and also printed and distributed as a public document.[3]

Classification of Public Service

Under a government which has such a large group of members of boards and commissioners, besides the usual minor officers and employees of the government departments and institutions, a large number in the public service properly comes under the jurisdiction of the civil service commission. The classified civil service of the state comprises all

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1 Ibid., p. 145 - 146.
2 Ibid., p. 146.
3 Ibid., pp. 146 - 147.

force in the civil service regulation is lacking a mandatory and is inadequate by a time and to counsel one Bureaucrat failure. In making ad-ministration, the commissioners may indicate otherwise, absolutely right, regard the leadership of officers, and the protection of books, rules, and records pertinent to the inquiry. In other words also the pos-sion of the commission is similar to that of a judicial body: the witness is compelled by subpoena, with compensation as is allowed by law in the judicial courts, to attend.

As an agent of the people performing a public service, the com-missioner is required to keep records of his proceedings and of all transac-tions pertaining to it. All records and documents dealing with the examination are declared to be kept in public security, and the records of personal-ities and all eligible lists are open to public inspection. A financial record of the work, including all votes adopted, is made in the proceedings regarding each complete revision of the merit labor-ing and distributed as a public document.

Classification of Public Service

Under a government which has such a large group of employees in-volved and complicated, having the usual minor officers and employees of the government departments and institutions, a large number in the private service supply some under the jurisdiction of the civil service commission. The classified civil service of the state comprises all

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1 Idem., p. 328 - 329.
2 Idem., p. 146.
3 Idem., pp. 329 - 330.

appointive public officers and employees and the places which they hold, except the following: judges of courts of record and one stenographer of each judge, one clerk for each court of record, persons appointed to perform judicial functions, receivers, jurors, members of boards or commissions appointed by the governor and serving without pay, members of the state industrial commission, of the public utilities commission and of the state civil service commission, the governor's private secretary and three confidential employees of his office, appointees to fill vacancies in elective offices, one deputy of each elective officer, deputy commissioner of labor, officers and teachers in educational institutions not reformatory or charitable in character, all attorneys at law serving as such, and the officers and employees of the general assembly.[1] Thus the civil service measure divides all positions in the state service into the classified and the unclassified, or those filled under the civil service rules and those not under them. Some positions which require technical qualifications and special training or which are confidential in character are excluded from the classified list, for it is regarded as impracticable to place them on the competitive basis. In some instances the positions which require special ability are removed, at the discretion of the commission, from the general restriction that all appointees must be qualified electors of the state.[2] Although the law makes no reference to officers and employees of subdivisions of the

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1 Ibid., p. 144.
2 Session Laws of 1919, p. 141.

state, court decisions were necessary to establish the law as applicable only to state service.[1] This is in harmony with the program of local autonomy in operation when the civil service measures became effective.

As a concession to partisan interests, the constitutional amendment provided that all persons in the classified service when the plan should become effective should retain their positions until removed under the provisions of the law.[2] This modification of the merit principle to protect the employees then in the service was a compromise with the opponents of the measure.

For the purpose of administering the law, all positions in the state civil service have been classified under fifteen classes, with from one to ten sub-classes under each class. The commission may further subdivide, for purposes of examination, the positions in any class or sub-class, so as to test practically the special qualifications requisite for the position.[3]

Appointment to Public Service

To secure the appointment of subordinate public employees on the basis of merit and competition, without reference to politics, is the chief purpose of the civil service program. "Appointments and employments . . . . . in the classified service of the state," the constitutional amendment begins, "shall be made according to merit and fitness, to be ascertained by competitive tests of competence, the person ascer-

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1 People ex rel. v. Higgins, 67 Colo., 441; People ex rel. v. Hersey, 69 Colo., 492.

2 Art. XII, Sec. 13; People ex rel. v. Chew, 68 Colo., 394.

3 Rules and Regulations of State Civil Service Commission (1919), pp. 19 ff.

ployes," civil [illegible] were necessary to establish the law as applicable only to state service.[1] This is in harmony with the program of local autonomy in operation when the civil service measures became effective.

As a concession to partisan interests, the constitutional amendment provided that all persons in the classified service when the plan should become effective should retain their positions until removed under the provisions of the law.[2] This modification of the merit principle to protect the employes then in the service was a concession made to the opponents of the measure.

For the purpose of administering the law, all positions in the state civil service have been classified under fifteen classes, with from one to ten sub-classes under each class. The commission may further subdivide, for purposes of examination, the positions in any class or sub-class, so as to test specifically the special qualifications requisite for the position.[3]

Appointment in Public Service

To secure the appointment of subordinate public employees on the basis of merit and competition, without reference to politics, is the basic purpose of the civil service program. "Appointments and employments . . . . . in the classified service of the state," the constitutional amendment begins, "shall be made according to merit and fitness, to be ascertained by competitive tests of competence, the persons under-

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[1] People ex rel. v. [illegible], 57 Colo., 443; People ex rel. v. [illegible], 67 Colo., 480.
[2] Art. XII, Sec. 13; People ex rel. v. [illegible], 64 Colo., 394.
[3] Rules and Regulations of State Civil Service Commission (1931), pp. 12 ff.

tained to be the most fit and of the highest excellence to be the first appointed."[1] It is to carry out this provision that the civil service commission is organized and functions.

After the classification of the public services, and the determination of standards of efficiency the commission must fill the positions by inducing competent persons to compete for them. The rules and regulations are distributed to the public,[2] and inquiries by personal calls or by mail are encouraged.[3] All examinations are advertised at least two weeks prior to the time they are to be held in one or more newspapers and by other methods determined by the commission. Notices are posted in post-offices and county recorders' offices.[4]

Applicants for examination or registration are required to file applications for the particular examination or registration which is sought, within the time advertised, on forms furnished by the commission. Information concerning age, citizenship, character, physical and mental capacity, previous employment, training and fitness is required, accompanied by the certificates of at least three reputable persons who vouch for the accuracy of the information given in the application.[5] A fee of one dollar is charged the applicant at the time application is made.

The examinations are public and open to those who comply with the requirements in regard to applications and fees, and who are not debarred for cause. No one is eligible for examination who is not a quali-

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1 Art. XII, Sec. 13.
2 Session Laws of 1919, p. 147.
3 First Biennial Report of the Civil Service Commission (1919-1920), p. 17.
4 Rules and Regulations, pp. 41 - 42.
5 Rules and Regulations, pp. 41 - 42.

fied elector of the state. The commission may, however, waive this requirement in connection with particular examinations because of the technical or professional character of the position to be filled, or because of the difficulty in procuring applicants who are electors of the state.[1] The nature of the examination is determined by the commission. It may include, as an attempt to determine fitness, medical and physical examination, or even demonstration of ability in the work to be performed.[2]

When the examination papers have been graded, the names of candidates who have passed satisfactorily are placed on the eligible lists where they remain ordinarily for a two year period.[3] When requisition is made for a position to be filled, the commission certifies to the proper authority the name of the person having the highest standing on the appropriate list. The appointing officer must select for appointment the person certified by the commission, unless proof of his unsuitability is submitted. In such a case the commission may certify an additional name. If the position is accepted by the person appointed, a certificate of appointment is given him; but if he declines without giving sufficient reason, his name is removed from the eligible list.[4]

If the need to fill a vacancy for which no appropriate eligible list exists is urgent, the commission may authorize the appointing power to nominate a person who may be appointed provisionally. The position may be filled later through the competitive examination, the

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1 Ibid., p. 41.
2 Ibid., pp. 41 - 42.
3 Ibid., p. 44.
4 Ibid., pp. 45 - 46.

provisional appointment may continue or the provisional appointment may be made permanent if an eligible list cannot be secured.[1]

Special Functions of the Commission

Changes in grade or rank are made when, in the opinion of the commission, the merit and fitness of the persons concerned have been determined by previous examination or by the records of efficiency of the department or institution in which they are employed. Vacancies in the service, in so far as practicable, are filled by promotions from among the persons in the same department, office, or institution, who have held positions for at least six months in the next lower grade or rank. For the purposes of promotion, examinations may be held as often as necessary to meet the needs of the service.[2]

As a matter of convenience in promotion and reduction, the grades for all departments, offices, and institutions, are determined by the commission. They are as follows: grade one, all positions the compensation of which is at the rate of not more than seven hundred dollars annually; grade two, from seven hundred to one thousand dollars; grade three, from one thousand to fifteen hundred dollars; grade four, from fifteen hundred to two thousand dollars; grade five, from two thousand to two thousand five hundred dollars; grade six, over two thousand five hundred dollars.[3]

Of equal importance with the appointment of persons to positions in the service is the suspension, reduction, and discharge. As a safeguard against party influence becoming effective in the system, the

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1 First Biennial Report, pp. 41 - 42; People ex rel. v. Chew, 68 Colo., 394

2 First Biennial Report, p. 42.

3 Ibid., p. 43.

law provides as follows:

Persons in the classified service shall hold their respective positions during efficient service and shall be graded and compensated according to standards of efficient service which shall be the same for all persons having like duties. They shall be removed or disciplined only upon written charges, which have been filed by the head of a department or by any citizen of the State, for failure to comply with such standards, or for the good of the service, to be finally and promptly determined by the Commission upon inquiry and after an opportunity to be heard. No person shall be discharged for a political or religious reason.[1]

Whenever charges against a person in the classified service are made, the commission or a disciplinary board acting for it investigates and gives the person concerned a full copy of the charges. Five days are allowed in which to make reply either in writing or in person. The findings of the commission or of the disciplinary board when approved by the commission are final. The penalty may be reprimand, fine not exceeding thirty days' pay, or both, permanent reduction in rank, grade, or compensation, or removal from the service. The execution of the findings of the commission are reported to the head of the department and by him enforced. The discharge of any employee otherwise than in accord with this rule is a misdemeanor for which there is a fine not to exceed one thousand dollars.[2]

Results of the Merit System

Although all positions under the state government, with the exception of those specified, have been under the civil service system since 1918, a large number of employees have been given provisional appointments subject to examination by the commission. The employees

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1 Session Laws of 1919, pp. 144.
2 Rules and Regulations, pp. 51 - 53.

[illegible] parties as follows:

Persons in the military service shall hold their respective positions during military service and shall be granted not exceeding [illegible] months of military service which shall be in lieu of [illegible] persons having like status. They shall be removed by [illegible] upon written evidence, which have been filed by the head of a department of by any citizen of the State. They failure to comply with [illegible], or for the good of the service, to be finally and [illegible] determined by the Commission upon hearing and after an opportunity [illegible] to heard. No person shall be discharged for a political or religious reason.[1]

Thereby charges against a person in the classified service are made, the complaint is a disciplinary board within the 11 investigation [illegible] after the person received a full copy of the charges. This hope [illegible] allowed to write to make reply either in writing or in person. [illegible] the findings of the complaint or of the disciplinary board which [illegible] by the commission are final. The results may be reviewed. The [illegible] assembly finally legal [illegible], as both, prescribed remedies in such [illegible], or removal from the service. The [illegible] of the findings of the commission are reported to the head of the department [illegible] by this method. The knowledge of any such [illegible] [illegible] agreed with this rule is a misdemeanor for which there is a fine not [illegible] one thousand dollars.

Details of the Merit System

Although all positions which are [illegible] permanent, with the exception of those specified, some [illegible] the civil service system [illegible], a large number of employees have been given provisional appointments in spite of examinations by the commission. The employees

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1 Revised Laws of [illegible], op. cit.

2 [illegible] and Regulations, op. cit.

under the civil service number approximately eighteen hundred sixty; and there are more than one thousand positions outside the service which legally could be placed under it.[1]

During the year 1920, the commission gave open competitive examinations to twenty-six assembled groups, in which six hundred two persons were examined and five hundred eighty passed with a grade sufficient to be placed upon the eligible list.[2] In the same year three hundred eighty-seven permanent and two temporary appointments were made. That a large part of the work of the commission consisted of the adjustment of changes within the service is shown by the following table:[3]

Promotions	125
Transfers	80
Reinstatements	22
Demotions	7
Resignations	246
Discharges	22
Deaths	11
Suspensions	7
Leaves of absence	72
Absent without leave	4
Declinations of appointment	40
Eligible list	151

The commission was called upon to investigate ten charges and complaints filed with it during the biennial period. In each case investigation was made, in some instances hearings were held, witnesses summoned and testimony taken, and a written record obtained in order to fully determine the facts. The complaints and charges included insubordination, wrongful diversion of water, neglect of duty, and brutal treatment of the inmates of boys' industrial school. The action of

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1 See article on order of the civil service commission, Rocky Mountain News, May 12, 1922.

2 First Biennial Report, State Civil Service Commission (1919-20), p. 48.

3 Ibid., p. 48.

the commission following investigation varied from giving a reprimand to dismissal. In five cases, the complaints and charges were dismissed, and in two cases the defendants resigned.[1]

Thus it appears that the intent of the law has been only partially realized, for in about one-third of the positions there has been opportunity for the spoils system to operate.

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1 Ibid., pp. 7 - 8.

CHAPTER XI

COUNTY GOVERNMENT

General Features

The counties of Colorado are in part the creation of the constitution and in part they have been created by acts of the general assembly. The counties which were in existence when the territory became a state were declared to be counties of the state.[1] The present boundaries of the several counties have been determined by statute law,[2] but in many instances the limits established by the territorial legislature have been retained to the present.[3] When the eleventh legislature, the last of the territorial series, adjourned in 1876, twenty-six counties were in existence.[4] No sooner had the state been organized than the division of counties to create new ones began.[5] At the present time there are sixty-three counties.

In area and population there is great diversity. Aside from Denver, which is a specially created county, the area of the counties varies from one hundred thirty-two square miles in Gilpin to four thousand seven hundred forty square miles in Moffat county. The average area for all the counties is one thousand six hundred forty-five square miles.[6] The population has a range even greater than that of the area. The one extreme is, of course, Denver County with a population of over a quarter million; the other extreme is Hinsdale county with a popula-

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1 Constitution of Colorado, Art. XIV, Sec. 1.
2 Mills Annotated Statutes, Sec. 1194 - 1263.
3 F. L. Paxson, "The County Boundaries of Colorado", The University of Colorado Studies (1906), Vol III, p. 198
4 Ibid., p. 205.
5 Ibid., p. 206.
6 Year Book of the State of Colorado, 1921 (published by State Board of Immigration), p. 93.

CHAPTER XI

Conclusions

General Conclusions

The Province of Kalinda was in part the creation of Alan Pendleton and is such they have been created by acts of the personal government. The conscious action away is achieved when the conquistador became a whole was [illegible] to be everyone of the state.[1] The primary development of the natural quantities have been determined by strength law. Not in every instance the limits established by the Territorial Legislature have been retained to the present.[2] When the General Legislature, the last of the territorial series, adjourned in 1879, twenty-six counties were in existence. The number had grown when [illegible] the division of counties to provide ever more laws.[3] At the present time there are sixty-three counties.

In area and population there is great diversity. Adobe from Tamora, which is a specially created county, the area of the counties varies from one hundred sixty-two square miles in Ellis to four thousand seven hundred fifty square miles in Martin County. The average area for all the counties is one thousand six hundred twenty-five square miles.[4] The population has a range even greater than that of the area. The one extreme is, of course, Tamora County with a population of [illegible] quarter million; the other extreme is Ellendale County with a population

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1. Constitution of Kalinda. Art. XIV, Sec. 1.
2. Territorial Statutes. Sec. 2134 - 2140.
3. J. C. Hanson, "The County Boundaries of Kalinda", The Territory of Kalinda Quarterly (1900). Vol XVI, p. 189
4. Ibid. p. 200.
5. Ibid. p. 204.
6. Short Study of the Debts of Kalinda. 1881 Quotations by Jesse [illegible]

tion of only five hundred thirty-eight. The second largest county, with respect to population, is Pueblo with fifty-seven thousand six hundred thirty-eight. The average population of the several counties is fourteen thousand nine hundred ten. These numbers do not property indicate the great differences which exist, for there are ten counties which have less than two persons per square mile, and the general average is less than ten per square mile. Of the whole number only sixteen counties have over ten per square mile.[1] These conditions are due to the nature of the country and of the occupations. The state is traversed from north to south by the mountain ranges; and the mining interests of the section always suggest a shifting population.

As the conditions with respect to population and area indicate, the political divisions of the state are similar to those of the southern states. The town or township, as a division of the county, does not exist; and the administration of government is centralized in the county.

The relations of the county and the state are partially regulated by the constitution. The prohibition is placed upon the general assembly that it shall not remove the county seat of any county. The authority to do this is declared to be within the power of a majority of the qualified voters of the county.[2] In a similar manner, the division of a county and the addition to an adjoining county can be accomplished only through the action of a majority of the voters of the county which will lose the territory.[3] The creation of a new county by setting apart a portion of a county already established, however, is within the

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1 Ibid., p. 93.
2 Constitution of Colorado, Art, XIV, Sec. 2.
3 Ibid., Art. XIV, Sec. 3.

[illegible] of only five hundred thirty-eight. The second largest county, with respect to population, is Santa Ana with fifty-seven thousand six hundred thirty-eight. The average population of the several counties is therefore thirteen times greater than. Even numbers do not properly indicate the great differences in law enforcement. For there are far greater [illegible] than the between one county and, and the general [illegible] in less than two days by one man. If the whole number of [illegible] were more than one county. These conditions are [illegible] the nature of the country and of the inhabitants. The state [illegible] from north to south by the mountain ranges, and the [illegible] of the medium plains suggest a natural separation.

In the conditions only respect to population and area [illegible], the political functions of the state are similar to those of the [illegible]. The area of necessity, as a division of the country, does not [illegible] the administration of government in maintained in the county. The relations of the county and the state are particularly [illegible] by the overriding. The jurisdiction is placed upon the general [illegible] that it shall not remove the county seat of any county. The [illegible] to be done is declared to be within the power of a majority of the [illegible] of the county. In a doubtful manner, the division of [illegible] and the addition to or alteration of county and is accomplished [illegible] through the action of a majority of the voters of the county who [illegible] have the territory. The creation of a new county by setting [illegible] a portion of a county already established, however, is with the

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[illegible] Ibid., p. 22.
[illegible] Constitution of California, Art. XII, Sec. 2.
[illegible] Ibid., Art. XII, Sec. 3.

authority of the general assembly.[1]

The interrelation of the county and the state is shown further by official connections. It is the duty of officers, in their ministerial capacity, to obey orders of those by law in authority over them, without questioning the validity of the orders.[2] Nearly all the officials locally elected, whose jurisdiction is defined by county limits, are considered as agents of the state, and are under some degree of control of state officers. The powers and functions of the county officers are expressly conferred by the constitution and by the statutes. Additional implied powers which are reasonably necessary to the efficient execution of their express powers and duties have been recognized by the courts.[3] By legislative enactment each county has been made a "body corporate and politic". This implies that this division of the state has both business and political functions. As corporations the county is authorized to bring suits in the courts and they may be sued on contracts. They also may acquire and hold both real estate and personal property. The elastic clause provides that the county shall exercise "other powers as conferred by law."[4]

The corporate powers of the county are only incidental to its governmental fu ctions. It is to perform the latter service principally that this division of the state was organized.[5] The officers of the county are enumerated in the constitution: in counties of less than

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1 Mills Annotated Statutes, Sec. 1195 ff.
2 People ex rel. v. Pitcher, 61 Colo., 149.
3 Board of Co. Commissioners of Gunnison Co. v. Davis, 150 Pac., 324; Mills Annotated Statutes, Sec. 1313 ff.
4 Ibid., Sec. 1288
5 Ibid., Chapter 37, Division III.

[illegible] of the general assembly.[1]

The interpretation of the charter and the state is often further [illegible] of official administration. It is the duty of officers, in their [illegible] capacity, to obey orders of those by law in authority over them. [illegible] questioning the validity of the orders.[2] Thus only all the administrative [illegible] family circle, some jurisdiction is defined by sworn limits, [illegible] maintained on behalf of the state, but are rather those parts of [illegible] of state activities. The powers and obligations of the military [illegible] are adequately enforced by the constitution and by the statutes. [illegible] implied powers which are necessarily necessary to the efficient [illegible] of their express powers and duties have been recognized by [illegible] courts.[3] By legislative enactment each county has been made a [illegible] "body corporate and politic". This implies full rights of the [illegible] has both business and political functions. In accomplishing the [illegible] in undertaking to bring suits in the courts and hold and by pass [illegible] property. They also may acquire and hold both real and [illegible] property. The courts have ruled that the county shall [illegible] "their powers be exercised by law."[4]

The municipal powers of the county are only incidental to the [illegible] functions. It is by virtue the latter service primarily [illegible] of the division of the state was created.[5] The activity of the [illegible] are necessary to the accomplishment of these ends

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1. [illegible] Annotated Statutes, Sec. [illegible] 22.
2. [illegible] vs. [illegible], 22 [illegible], 146.
3. [illegible] vs. [illegible], [illegible] Ohio St. 2, Syll. 180 Ohio St. [illegible]
4. [illegible] Sec. [illegible]
5. [illegible] Chapter 27, Revised [illegible].

seventy thousand population, there shall be three commissioners; in counties in which the population exceeds seventy thousand the number of commissioners may be as many as five; and, in all counties, there shall be a county clerk, a sheriff, a coroner, a treasurer, a superintendent of schools, a county surveyor, an assessor, and an attorney.[1] The term of office of the commissioners is four years in both classes of counties. In the counties of the first class three commissioners were to be elected in 1904 and every four years thereafter and the other commissioners were to be elected in 1906 and every four years thereafter. In the counties of the second class two commissioners were to be elected in 1904 and the third in 1906, with renewals every four years.[2] The terms of the remaining county officials listed above are two years.[3] In case of vacancy in the office of county commissioner, the governor makes a temporary appointment; and, in case of vacancy in any other county office, the board of county commissioners fills it. The person who is appointed to fill a vacancy holds office until the next general election, or until it is otherwise filled according to law.[4]

Organization of County Government

Each county of the state is divided as equally as possible, by the board of county commissioners, into as many districts as there are commissioners. One commissioner is elected from each district by the voters of the whole county.[5] At the first meeting of the board a chairman is chosen from its own membership, who becomes the superintendent

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1 Art. XIV, Sec. 68.
2 Ibid., Art. XIV, Sec. 6.
3 Ibid., Art. XIV, Sec. 8.
4 Ibid., Art. XIV, Sec. 9; Mills Annotated Statutes, Sec. 1309.
5 Ibid., Sec. 1299.

of the poor, for which he receives additional compensation.[1] The board is required by law to hold at the county seat four meetings each year on the first Monday in January, April, July, and October, and at such other times as the public interest may require.[2]

The powers and duties of the county board are expressly conferred by the constitution and the statutes. In addition such implied powers are authorized as are reasonbly necessary to the efficient execution of the express powers and duties.[3] The specific grant of powers is enumerated under nine divisions which may be grouped as follows: (a) the management of the county finances and property, (b) the construction and maintenance of public buildings and highways, (c) the establishment of precincts, (d) the representation of the county in business and other transactions, and (e) the care of the poor, the insane, and the feeble-minded.[4]

The most important power exercised by the county board is the levying of taxes and the appropriating of money for the several purposes authorized by law. The board levies the tax for county purposes and, under limitations, is empowered to borrow money for the purpose of erecting necessary public buildings and constructing public roads and bridges. The amount of indebtedness may not exceed three dollars on each thousand dollars of taxable property, unless a majority of the

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1 Ibid., Sec. 1303a, 1306.
2 Ibid., Sec. 1304.
3 Robbins v. Board of County Commissioners of Boulder Co., 50 Colo., 615.
4 Ibid., Sec. 1313.

taxpayers authorize a larger amount of indebtedness at a general election.[1] The amount of tax for county purposes which may be levied in any year is fixed also by law. To determine this limit the counties are divided into ten classes. The total tax which may be imposed varies from three mills in the county of the first class to twenty-five mills in a county of the tenth class.[2] The commissioners act also as a county board of equalization to adjust and equalize the valuation of real and personal property within their respective counties.[3] The annual expenditure of money is determined by the appropriation resolution of the board at the close of the preceding year. No amount may be used for any purpose unless it has been included in the annual appropriation measure.[4] A further limitation is placed on the board with regard to expenditures of county funds: it is unlawful to purchase supplies outside the state when they can be secured within the state at a cost which does not exceed the cost outside.[5]

Aside from the powers relative to revenue and other interests which have been mentioned, the board of county commissioners, in its capacity of a county board of health, has a wide range of police, sanitary, and other legislative and administrative functions.[6] The detail with which the state legislature may deal with local interests limits the legislative authority of the county board.[7]

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1 Constitution of Colorado, Art. XI, Sec. 6.
2 Mills Annotated Statutes, Sec. 1297, 1298.
3 Constitution of Colorado, Art. X, Sec. 15; Session Laws of 1915, p. 164.
4 Session Laws of 1891, p. 111.
5 Mills Annotated Statutes, Sec. 1316.
6 Ibid., Sec. 5652.
7 Constitution of Colorado, Art. V, Sec. 25.

The county clerk performs a double duty since he serves as clerk of the board of county commissioners and as clerk of the county.[1] As clerk of the county board, it is his duty to keep a record of all proceedings of the board, to record all resolutions and decisions, to keep an account of the receipts and expenditures of the county, and to perform other duties as may be required by law.[2]

It is while serving as county clerk that the greater service is rendered. Independent of his connection with the board of county commissioners, the county clerk is charged with the duty of recording deeds, mortgages, and other papers relating to the transfer of property, such as homestead entries, trust deeds, and other changes of record affecting real estate. As a keeper of all county records, he may be required to record a will for the disposal of real estate,[3] he files maps and papers relating to irrigation systems,[4] and he files affidavits of partnership.[5] Among numerous other general functions, the clerk prepares the ballots for elections and receives the returns.[6] Although his services appear to be chiefly secretarial and clerical, the clerk is one of the important administrative officials of the county.

The chief executive officer of the county is the sheriff who serves as a local representative of the executive power of the state, and, at the same, as an executive officer of the courts.[7] In addition he

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1 Ibid., Sec. 1369.
2 Ibid., Sec. 1364.
3 Ibid., Sec. 852
4 Ibid., Sec. 3630, 3966 ff.
5 Ibid., Sec. 5367, 5368.
6 See Chapter II.
7 See Chapter VIII.

The county clerk performs a double duty since he serves as clerk of the board of county commissioners and as clerk of the county. As clerk of the county court, it is his duty to keep a record of all proceedings of the board, to record all resolutions and decisions, to keep in custody of the records and papers of the county, and to perform other duties as may be required by law.

It is quite apparent as county clerk that the position carries a heavy burden. Challenged at his convention with the board of county commissioners, the county clerk is charged with the duty of providing blanks, stationery, and other supplies relating to the business of government, for innumerable minutes, legal forms, and other documents of various kinds and sizes. As a keeper of all county records, he may be required to answer a call for the disposal of such records, to issue copy and report relating to investment accounts, and to file certificates of partnership. Many numerous other general functions, the clerk performs the duties the elections and maintains the records. Although his jurisdiction appears to be solely ministerial and clerical, the clerk is one of the important administrative officials of the county.

The other elective officer of the county is the sheriff who serves as a land conservationist of the executive power of the state, and, of the same, is an executive officer of the courts. In addition to

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1 Ibid., Sec. 1242.
2 Ibid., Sec. 1244.
3 Ibid., Sec. 1246
4 Ibid., Sec. 3202, 1242 et.
5 Ibid., Sec. 8207, 8210.
6 See Chapter II.
7 See Chapter VIII.

performs a wide range of minor functions. As a police officer, the sheriff is charged with the duty of preserving the peace in the county, of preventing crime by suppressing riots, unlawful assemblies, and insurrections. To accomplish this any persons who are needed to aid the officials may be summoned.[1] It is discretionary with the sheriff as to what measures shall be taken to suppress disorder. Should the threat be serious, he may request the governor to send state forces into the county.[2] Since there is no organized county police, the maintenance of law and order in the communities outside the cities and towns depends upon the interest and energy of the sheriff.[3]

In accord with the American theory of state government, the execution of the laws of the legislative body is left mainly to the local officials. As an agent of the state, the sheriff is not responsible to the state executive department, for the policy of decentralization prevails in Colorado to the extent that it becomes a decided weakness of administration.

In his relations with the courts of record in the county the sheriff functions most largely. He, or his undersheriff or deputy, is required to attend each session of the county court or of the district court held in the county, to keep order in the courtroom. He executes the orders of the court and serves all processes and writs issued by the court. In civil cases, this includes the collection of the award, and, if necessary, the seizure and sale of property to satisfy the judgment; and, in

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1 Mills Annotated Statutes, Sec. 1395.
2 Ibid., Sec. 4829.
3 In 1921 the legislature provided for the Colorado Rangers who are expected to aid in the administration of law in rural communities.

criminal cases, the custody of the prisoner or his delivery to the proper institution.[1]

To insure the faithful performance of duty the board of county commissioners fixes a bond for the office of sheriff varying from five thousand to twenty thousand dollars.[2] If the official be guilty of neglect of duty as an agent of a court, a fine not to exceed two hundred dollars may be imposed and action for damages to the aggrieved party may follow. And further, upon recommendation of the jury, the court may add to the judgment that the officer convicted shall be removed from office.[3]

The coroner is an officer whose duties relate to cases of violent or sudden death.[4] When he is informed of the death of any person within his jurisdiction, the cause of which is unknown, the coroner is required to view the body and investigate the cause and the manner of death. If he is satisfied that no person is guilty of causing the death and that there are no suspicious circumstances attending it, the body is turned over to friends for interment. If the death is supposed to have been caused by violence, he must hold an inquest to determine whether or not death has been due to violence, and if so to fix responsibility. Six citizens of the county are summoned by the coroner to appear at a designated time and place to inquire into the cause of death and, from the evidence presented, to bring in a verdict and make accusations. The coroner has the same authority to summon witnesses and conduct the investi-

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1 Mills Annotated Statutes, Sec. 1392, 1392, 1398.
2 Ibid., Sec. 1385.
3 Ibid., Sec. 1401; 1879.
4 Ibid., Sec. 1414 ff.

gation as a justice of the peace. The complete report of the findings of the jury, including the testimony of witnesses and the verdict of the jury, is given by the coroner to the district court. If the findings indicate a crime has been committed and name the persons who the jury thinks haw committeed it, the coroner issues a warrant for his arrest. The warrant and the report of the investigation, when presented to a justice of the peace, call for the same proceeding as a complaint.

In addition to the duties of coroner already indicated, he may be required to perform the duties of sheriff. When for any reason the office of sheriff is vacant, the coroner exercises all the powers and duties of the office.[1]

All the funds belonging to the county and all other funds which by law are directed to be paid to him are received by the county treasurer. The funds which he receives may be disbursed only by order of the board of county commissioners, according to law, or in accord with special provision of law.[2]

The treasurer is, by virtue of his office, the collector of all the taxes levied in the county.[3] He receives the money levied in the school districts for school purposes and pays out the funds by order of the boards of school directors. Once each quarter he submits to the secretary of each school board an itemized statement of account of their district.[4] In a similar manner, the treasurer collects the taxes for

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1 Ibid., Sec. 1411.
2 Ibid., Sec. 1435.
3 Hardesty v. Price, 3 Colo., 558.
4 Mills Annotated Statutes, Sec. 6624 - 6629.

each town and city and pays the amount to the local treasurer.[1] The amount of the tax levy for state purposes is paid into the state treasury.[2]

The financial interests of the people are protected by the requirement of a bond to be given by the treasurer of a value not less than twice the amount of tax levied by the county commissioners and paid to the treasurer. With this limitation, the board is allowed to fix the amount of the bond.[3] In addition to this protective measure the district court of each county is required at each term to appoint a committee not to exceed five persons to investigate the official accounts and the affairs of the county treasurer and to report to the court on their condition. During vacation of the court the district judge has authority to appoint an investigating committee, but he may not do so oftener than once in every three months.[4]

The valuation of the property within the county for taxation is determined by the county assessor. All property and persons subject to taxation are listed. When, in the opinion of the board of county commissioners, the assessor is unable to make the assessment, it is required to divide the county into assessment districts and to authorize the assessor to appoint a deputy in each district to determine valuations and to list the persons and property.[5]

The work of the assessor is directed by constitutional and statute law.[6] It is subject to revision by the board of county commissioners,

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1 Ibid., Sec. 7276.
2 Ibid., Sec. 1447.
3 Ibid., Sec. 1429.
4 Constitution of Colorado, Art. XII, Sec. 5.
5 Mills Annotated Statutes, Sec. 1456, 1457.
6 People ex rel. Colorado Tax Commission v. Pitcher, 56 Colo., 343

[illegible] then and also and give the amount to the local treasurer. The [illegible]part of the tax levy for state purposes is paid into the state treasury.

The financial interests of the people are protected by the requirement of a bond to be given by the treasurer of a value not less than [illegible] the amount of tax levied by the county commissioners and paid to the treasurer. With this limitation, the bond is utilized in the [illegible]ment of the bond. In addition to this protective measure the director [illegible] of the county is authorized at such time to require a [illegible] and [illegible] this power is invaluable in obtaining additional assurance and the [illegible] of the county treasurer and to protect in the event of their [illegible]. [illegible] review of the work the district judge has authority to [illegible] investigating committee, but he may not do so without first [illegible] [illegible] by two months.

The estimates of the property which the county for taxation is [illegible] by the county assessor. All property and persons subject to [illegible] are listed. Then, in the opinion of the board of county [illegible], the assessor is unable to make the assessment, it is required to divide the county into assessment districts and to [illegible] a person to acquire a degree in each district to determine [illegible] and to list the persons and property.

The work of the assessor is directed by [illegible] and [illegible]. It is subject to revision by the board of county commissioners.

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1. [illegible], Sec. [illegible].
2. [illegible], Sec. [illegible].
3. [illegible], Sec. [illegible].
4. [illegible] of [illegible], [illegible], Sec. [illegible].
5. [illegible] [illegible], Sec. [illegible], [illegible].
6. [illegible] et al., [illegible] [illegible] v. [illegible], [illegible] [illegible], [illegible]

acting as a board of equalization, to which appeals may be made by persons dissatisfied with the assessment of their property.[1] Still further appeal is allowed to the state board of equalization.[2] Since the work of the assessor serves as the basis of state as well as local taxation, the state is justified in interference to adjust property valuations. To aid in the desired state regulation, a tax commission is given authority to revise the work of the assessor.[3]

To insure the proper performance of his duties the assessor is required to give bond in an amount not less than six thousand dollars. The state board of equalization also serves as a check on the office of assessor. In case any assessment is found to be erroneous, and the board certifies that the official is guilty of wilfully making erroneous assessment, the governor, after a hearing, may remove the assessor from office. The successor, appointed by the board of county commissioners, may also be removed, unless a just and lawful assessment is obtained.[4]

The office of surveyor is one of considerable importance because of interest in irrigation. This official executes surveys by court order or upon application of any individual or corporation. A record of all surveys is kept by the surveyor and turned over to his successor in office.[5] He has special functions to perform in relation to the supervision of the construction of reservoirs and their inspection.[6]

The county superintendent of schools is the last of the group of elective county officials which are provided for in the constitution.[7]

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1 Constitution of Colorado, Art. X, Sec. 15.
2 Ibid., Art. X, Sec. 5.
3 Session Laws of 1911, p. 615.
4 Mills Annotated Statutes, Sec. 6346.
5 Ibid., Sec. 1460 - 1461.
6 Ibid., Sec. 3746.

7 For a discussion of the judicial

See next page -

[illegible] on a basis of equalization. In which aspects may be made by pro-
[illegible] distributed with the assessment of state property. [illegible]
[illegible] proposed to attract the state board of equalization. [illegible]
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[illegible] the state is justified in intervening to adjust property valu-
[illegible]. To all by the desired style respectively, a [illegible] is
[illegible] authority to review the work of the assessor.

[illegible] We review the [illegible] particulars of the duties the assessor is
[illegible] to give land in an amount not less than six thousand dollars.
[illegible] state board of equalization also serves as a check on the office of
[illegible]. In this way assessment is found to be arbitrary, and the
[illegible] requires that the officer in charge of activity making [illegible]
[illegible]. The [illegible], after a hearing, may remove the [illegible]
[illegible]. The assessor, appointed by the board of county commissioners,
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The office of assessor is one of considerable importance because
[illegible] interest in taxation. This official exercises control by [illegible]
[illegible] or non-activities of any individual or corporation. A record
[illegible] property is kept by the assessor and issued upon the assessor
[illegible] action. He has special functions to perform in relation to the
[illegible] of the assessment of personalty and state taxpayers.

The county superintendent of schools is the head of the office of
[illegible] county officials which are provided for in the constitution.

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1 [illegible] of [illegible], [illegible], [illegible].
2 [illegible], [illegible], [illegible].
3 [illegible] [illegible], p. [illegible].
4 [illegible] [illegible], [illegible], [illegible].
5 [illegible], [illegible], [illegible] (1916).
6 [illegible], [illegible], [illegible].
7 For a discussion of the problem

He serves as ex officio commissioner of lands within his county, and acts under the direction of the state board of land commissioners.[1] The other duties of the office are prescribed by statute law. The general duties of the superintendent may be divided into two classes: those which relate to supervision and inspection, and those which are concerned with direct administration. Among the latter are included the enforcement of the laws relating to the public schools with respect to both teachers and boards of trustees. Statements of the apportionment of school funds are made to the officials of the school districts, when these are available. His relations with the state department are mainly through receiving instructions and decisions, which he is obliged to carry out, and through an annual report which is required of him in September.[2] As an inspector and supervisor, the superintendent is required to visit each school in the county at least once during each quarter it is in session. In addition to inspecting the school, he examines the accounts of the district officers to determine if they are properly kept and all district funds are properly accounted for. The superintendent is authorized to hold county teachers' associations whenever, in his judgment, the interests of the school work demand it.[3]

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officers of the county, see Chapter VIII.

1 Constitution of Colorado, Art. IX, Sec. 6.

2 The School Laws Annotated of the State of Colorado (1917), published by authority of the State Superintendent of Public Instruction, with supplement to 1921, pp. 52, 53.

3 Ibid., pp. 52, 53.

The faithful performance of the duties of the office of county superintendent of schools and the delivery of moneys and property to his successor at the close of the term of office is assured by the requirement of a bond of not less than two thousand dollars. At the discretion of the board of county commissioners, the amount of the bond may be increased.[1] And as a further precaution against the office being mismanaged or controlled by one without proper qualifications, the office is declared to be vacant under the following conditions: when the superintendent ceases to be a resident of the county; when he is convicted of any infamous crime, or any offense involving a violation of his official oath; or when he is adjudged incompetent by a regular tribunal.[2]

The last in the list of the county officers to be mentioned in the constitution is county attorney. This officer, the constitution declares, may be elected or appointed, as shall be provided by law.[3] In compliance with this provision, the legislature enacted that, when the interests of the county require it, a county attorney may be appointed by the board of county commissioners,[4] to serve as the "proper representative of the county in legal proceedings."[5]

To provide for any need which may arise in the county calling for additional official service, the constitution states that "the general assembly shall provide for such other county ..... officers as public

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1 Ibid., p. 47.
2 Ibid., p. 48.
3 Constitution of Colorado, Art. XIV, Sec. 8.
4 Mills Annotated Statutes, Sec. 1355.
5 Stermer v. La Plata Co., 5 C. A., 390.

convenience may require."[1]

Functions of County Government

From the time when the territorial legislature of Kansas in 1855 passed an act creating Arapahoe county out of the western portion of Kansas Territory until the present, the county divisions of the state have depended, not upon charters but upon statute and constitutional law, for their creation and government.[2] Each county is made a "body corporate and politic," for the following purposes: to sue and be sued, to purchase and hold real and personal property, to make contracts, and to exercise other powers which may be conferred by law.[3] The county is an involuntary political and civil division of the state, created to aid in the administration of state government.[4] It may be controlled, for the most part, by the legislature, which confers upon it powers, prescribes duties, and imposes liabilities.[5]

The relation of the legislature to the counties, as already stated is partially determined by the constitution. When the control of the cou ties is not restricted by constitutional provisions, the legislature has great power over them. Under pressure of political partisan groups and special interests, the legislature is inclined to special legislation. The constitution, therefore, prohibits the general assembly from passing any local or special laws relative to a large number of interests, among which is included the regulation of county affairs.[6] The general limitation is also established that "where a general law

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1 Art. XIV, Sec. 12

2 Helen G. Gill, "The Establishment of Counties in Kansas", Transactions of the Kansas State Historical Society, Vol. VIII, p. 450; Constitution of Colorado, Art. XIV; Mills Annotated Statutes, Sec. 1194ff

3 Mills Annotated Statutes, Sec. 1288.

4 Hackaday v. Board of County Commissioners of Chaffee Co., 1 Colo., App. 372.

5 Board of County Commissioners of Montezuma Co., v. Wheeler,

can be made applicable, no special law shall be enacted."[1] Specific limitations are placed upon the general assembly in that no changes in the boundaries of counties or in the location of county seats shall be made without the consent of a majority of the qualified electors in the counties concerned.[2] The positive direction is given the general assembly that the counties of the state shall be classified according to population fo the purposes of regulating the compensation of officers, of establishing scales of fees to be collected, and of determing other local interests.[3]

The general extent of the functions of county government is shown by the annual expenditures for the purpose. While a portion of the expenses of the county are paid by funds not derived from the general tax, this source of revenue provides the great part of the county revenue. In 1919 the total income of the counties of the state from the general tax was slightly over ten million dollars, or ten dollars and seventy-four cents per capita.[4] For the same period the state revenues were only five million dollars, approximately, or five dollars and fifty-three cents per capita.[5] In the latter case, however, only forty-one per cent. of the revenues were derived from the general tax.[6]

The administration of justice is accomplished principally through the county as a judicial district. The county court is an effective agency, and the district court has jurisdiction over a district in area equal to one or more counties.[7] The officers of this class of courts

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1 Constitution of Colorado, Art. V, Sec. 25.
2 Ibid., Art. XIV, Sec. 2 - 3.
3 Ibid., Art. XIV, Sec. 15.
4 Ninth Annual Report of the Colorado Tax Commission (1920), pp. 106-107.
5 Ibid., pp. 106 - 107. 6 See Chapter IX.
7 See Appendix IV.

[illegible] be made applicable, on equal [illegible] but should be uniform.[1] Equality [illegible] qualifications are placed upon the general assembly in that no [illegible] be members of parties or in the [illegible] of assembly seats shall be made without the consent of a majority of the political electors in the [illegible] assembly.[2] The qualifying clauses in place for general [illegible] that the results of the vote shall be eliminated [illegible] [illegible] the purpose of regulating the apportionment of [illegible] [illegible] of establishing unless at then is to be initiated, and of [illegible] [illegible] local interests.

The general method of the franchise of assembly government is [illegible] by the usual exceptions for the employed. While a portion of [illegible] payment of the assembly was paid by funds and derived from the general [illegible], this method of revenue provides the great part of the assembly [illegible]. In 1881 the total income of the assembly of the state from [illegible] was slightly over ten million dollars, or ten dollars [illegible] twenty-four cents per capita.[3] For the same period the state [illegible] expenses were only five million dollars, approximately, or five dollars [illegible] fifty-three cents per capita.[4] In the latter case, however, only [illegible] per cent, of the revenues were derived from the general tax.

The administration of justice is accomplished principally through [illegible] assembly as a judicial district. The county court is an elective [illegible], and the circuit court is the jurisdiction over a district is [illegible] to use as county courts.[5] The officers of this class of courts

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1 Constitution of Colorado, Art. V, Sec. 18.
2 Ibid., Art. XIV, Sec. 2 - 3.
3 Ibid., Art. XIV, Sec. 12.
4 Annual Report of the Colorado Tax Commission (1906), [illegible]
5 Ibid., Sec. 1 - 2. A. Sec. Chapter 32.
6 See Appendix IV.

are, for the most part, county officers.[1] In criminal cases, nearly every phase of the proceedings is connected with the county: whether it be the arrest of an accused or suspected person, or the summoning of a grand or petit jury, the task falls to a county officer. The offenders who are brought to trial are offenders against state law rather than local laws.[2] The civil cases bring the county into them in a lesser degree of importance. The suits are brought by private individuals, the attorneys for neither party are representing the state, and the cost of the trial is not public expense.[3] In a similar manner, probate and juvenile work is administered within the county as a judicial district, but under the direction of laws state wide in scope.[4]

An important feature of the administration of criminal law is the county jail, which serves as both a jail fo the county and a prison for the state. The jail is provided for by acts of the legislature and is placed under the management of the sheriff's office.[5]

In the conduct of elections also the county performs a notable service in connection with state government. The procedure in nomination and election, not only of officers of the county and smaller divisions of the state but also of state representative, senator, and congressman, is directed by county officials or minor officials chosen by them. All the work of providing for polling places, the selection of election judges and clerks, the canvass of the returns, and the certifi-

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1 See Chapter VIII.
2 Thomas Ward, "Criminal Proceedings", Report of Colorado Bar Association (1912), pp. 116-126.
3 J. H. Denison, "Civil Procedure", Report of Colorado Bar Association (1912), pp. 177 - 192.
4 Mills Annotated Statutes, Sec. 1616 ff.; Constitution of Colorado, Art. VI, Sec. 1; Session Laws of 1903, p. 179; Session Laws of 1907, p. 324.
5 Mills Annotated Statutes, Sec. 4125 - 4126.

cation of returns devolves upon county agencies.[1] The agency of government which functions in elections, the political party, is organized through the local and county officers. The county central committee and the county assembly are important features of the state party system.[2] The members of the state party convention are chosen by the county conventions.[3] The county party organization functions also in the selection of county officers.[4]

While performing services in connection with local government in the assessment and collection of taxes, the county government secures nearly one-half of the state revenues and turns it over to the state treasury.[5] A further service of the county to state government, performed under the direction of state law, is the recording of deeds and other legal instruments.[6] In addition to these functions, already noted, in the performance of which the state and county co-operate and supplement each other, many others of a minor nature receive the attention of local officials who act under the direction of statute law.

In contrast to the functions performed by the county which are essentially a part of the administration of state government, there are the functions primarily of local interest. Among these there are the construction and maintenance of highways, the support of education, and

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1 See Chapter II.
2 Election Laws of Colorado (1919-1920), pp. 29 ff.
3 Rocky Mountain News, June 22, 1922.
4 Greeley Tribune-Republican, August 5, 1922.
5 See Chapter IX.
6 Mills Annotated Statutes, Sec. 1373.

the relief of the poor.

The highways of the state cost the cou ties in one year three million six hundred fifty thousand dollars, or three dollars and eighty-eight cents per capita.[1] This amount was supplemented by the expenditures of the state and federal governments for the same purposes. There are, in the state, highways as follows:

State highways.....	8,207 miles
Hard surfaced roads.....	56 miles
Roads surfaced with gravel.	4,028 miles
Graded dirt roads.....	22,306 miles
Unimproved roads.....	39,496 miles
Total road mileage.....	65,876 [2]

Next to the highways in the cost to the people, there are the public schools of the county. In each of fourteen counties, there is a county high school. These together with the other schools necessitate the raising by taxation of two million eighty-four thousand dollars, or two dollars and twenty-one cents per capita.[3] In each county a general school fund is raised by taxation. Each board certifies to the county superintendent the amount necessary for the support of the school; and the superintendent certifies the amount to the board of county commissioners, which levies a tax (never in excess of five mills on the dollar) to provide the fund to pay the salaries of teachers. If any deficiency in any district occurs, it is met by apportionment from the state treasury.[4] The same law provided for a minimum salary scale as

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1 Report of Colorado Tax Commission (1920), pp. 106 - 107.
2 Colorado Year Book (1921), p. 118.
3 Report of Colorado Tax Commission (1920), pp. 106 - 107.
4 Session Laws of 1921, pp. 721 ff.

follows:

1. To any regular teacher seventy-five dollars a month.

2.. To high school graduates with two years additional professional training one thousand dollars for nine months, and for less time pro rata.

3. To high school graduates with four years additional professional training twelve hundred dollars for nine months, and for less time pro rata.

In addition to the amount expended for the maintenance of the schools, one thousand nine hundred six school districts of the state have a bonded indebtedness of over eleven and a half million dollars.[1] The amount invested in school property is approximately twenty-four million dollars.[2] The provisions here presented are required for the care of one hundred twenty-five thousand children between the ages of eight and fourteen.[3]

Although the poor relief may not appear an important function of the county, it is provided for in each county. The chairman of the board of county commissioners is the overseer of the poor.[4] Each county supports a poor farm and, in some, a hospital is also provided, in which every poor person who is unable to earn a living may be supported. The community will not assume the support of a person who has a near relative competent to do so. Unless a person is pauperized by intemperance or other bad conduct, he must be supported by parents, grandparents, children or grand children, or brother or sister. In the specific case of pauperization mentioned, only a parent or child is

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1 Twenty-third Biennial Report of State Superintendent (1919-1920), p. 57.
2 Ibid., p. 67.
3 Ibid., p. 25.
4 Mills Annotated Statutes, Sec. 1304.

liable. Failing to give support in accordance with the law renders a relative liable to twenty dollars monthly, which may be collected by the county commissioners.[1]

In the foregoing discussion enough attention has been directed toward the close interrelation of the governments of the state and the counties to emphasize their interdependence. The tendency toward centralization constantly appears. The creation of a state board or commission detracts from the position of the county as a unit of government. Notable examples of this are the state tax commission and the state highway commission. The one exercises a controlling supervision over any section of highway which they may choose to declare a state road;[2] the other controls financial procedure in the counties by supervising the assessment of property.[3] In like manner the state government steps in to share in the function of the county in law enforcement.[4]

Subdivisions of the County

There are in each county of the state small areas, besides the towns and cities, established for political and administrative purposes. In each case, the subdivision is made chiefly to provide for local interests which are best recognized through the establishment of a small district.

As already noted, the counties are divided by the board of county commissioners for the purpose of electing members of board.[5] Although

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1 Ibid., Sec. 5378, 5383, 5388.
2 Session Laws of 1921, pp. 362 ff.
3 See Chapter IX.
4 See Chapter VIII.
5 See page 256. For a discussion of general election precincts, see page 46.

[illegible]

[illegible] Failing to give support to agriculture with the low yields a relative limit to steady dollars monetary, which may be utilized by the steady investment.

[illegible] In the Congolese economies social effectiv has been directed towards the class interestedness of the government of the state and the capacity to capitalize their taxing-classes. The [illegible] specific-item monetarily expenses. The erection of a state based on [illegible] interests from the position of the money as a unit of power-[illegible]. Particle examples of this are the state has [illegible] and the state [illegible] economies. The one controls a monopolizing [illegible] any realms of [illegible] and may change to [illegible] a state [illegible] the other controls financial [illegible] in the monetary [illegible] the allocation of property. It like manner the state [illegible] also in [illegible] the function of the society in [illegible].

Restrictions of the Growth

Stages are in each country of the whole world [illegible]. Besides the [illegible] and other, [illegible] for political and [illegible] [illegible] a [illegible] case, the mobilization is made [illegible] to provide the least in-[illegible] which are best [illegible] through the [illegible] of a [illegible] [illegible].

As already noted, the [illegible] are [illegible] by the [illegible] of [illegible] [illegible] for the process of [illegible] [illegible] of [illegible].

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1. [illegible]
2. [illegible] [illegible] [illegible] [illegible] [illegible]
3. [illegible]
4. [illegible]
5. [illegible] [illegible]. For a [illegible] of [illegible] [illegible] [illegible] [illegible] [illegible].

the election is by the entire county, the special interests of localities are given recognition by the districting.[1]

To provide for the election of the officials and to furnish an administrative division for the administration of justice, the boards of county commissioners are required to divide the county into as many justices' precincts as the necessities of the county may require. In each precinct two justices of the peace and two constables are elected for a term of two years. The number of justices and constables in counties of more than fifty thousand population, the constitution provides, may be increased by law.[2] Accordingly the legislature has provided that additional constables and justices may be appointed, as the needs require.[3]

The roads of the county, except those designated by the state highway commission as state roads,[4] are under the supervision and control of the county commissioners. For efficient supervision and management, the county is divided into suitable road districts. Over each district an overseer is appointed by the board for one year; and over these overseers a superintendent of roads and bridges is placed by the board.[5] The amount of money to be expended in any district is determined by the board. The limitation on the expenditure for road construction and improvement is the maximum legal levy fixed at one dollar on one hundred dollars of property valuation.[6] The construction and maintenance of the

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1 See pp. 236 ff.
2 Art. XIV, Sec. 11; Mills Annotated Statutes, Sec. 4270.
3 Ibid., Sec. 4271.
4 The state highways are supported by joint funds; and the county apportionment by the commissioners cannot exceed one-half the expenditure. Session Laws of 1921, p. 370.
5 Mills Annotated Statutes; Sec. 6504 - 6510.
6 Ibid., Sec. 6505.

roads within the county, either rural or urban, may be done by convicts from the state penitentiary. Through the co-operation of the county commissioners and the state board of corrections arrangement may be made with the warden to detail convicts for the work. When this arrangement is made the county furnishes the necessary tools and supplies extra guards.[1]

The county divisions of the greatest importance, from the standpoint of influence on the community and of the cost in expenditures, are the school districts. The general assembly was authorized by the constitution to provide by law for the organization of school districts of convenient size. In each district a board of education of three or more directors should be elected by the qualified electors, to have control of instruction in the public schools of the district.[2] In carrying out the constitutional provision, the legislature enacted that the county superintendent should have full discretion in the matter of organizing school districts. The procedure is as follows: (a) the superintendent decides that the organization of a school district is expedient; (b) a meeting of the electors of the proposed district is called by the superintendent, at the request of the people or upon the initiative of the superintendent; (c) a two-thirds vote of the electors of the proposed district is necessary to organize a new district; and (d) the organization of the district and the establishment of its boundaries are accomplished by the electors.[3] When once established, the

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1 Session Laws of 1921, p. 219.
2 Constitution of Colorado, Art. IX, Sec. 15.
3 School Laws of Colorado (1917), pp. 236- 237.

district cannot be changed by the board of directors, the county superintendent, or the state board of education.[1] In fact, the control of the electors in the organization of the district, after the superintendent has called a meeting, is quite unrestricted. The law does not require any definite number of children of school age to be residents of the district, nor is there any limitation on the size of the district.[2]

The organized districts are classified by law as follows: class one, with a school population of one thousand or more; class two, with a school population of between three hundred fifty and one thousand; and class three, with a school population of less than three hundred fifty.[3] The board of directors, elected for six years, consists of five members in each district of the first class, when the school population is under twenty thousand; of seven members in each district of the first class, when the school population is over twenty thousand; and of three members in each district of the second and third classes. The officers of the board, elected by the board, are a president, secretary, and treasurer, chosen for two years. With the exception of the president in districts of the first class, the officers of the board are not required to be members of that body.[4]

The board exercises its authority by providing for public instruction in the district. It is authorized to provide for the operation of the school, to provide for free taxes when a majority of the electors of the district so determine, to provide for the interchange of teachers

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1 People v. Van Horn, 20 C. A. 215.
2 School Laws of Colorado (1917), p. 236.
3 Session Laws of 1917, p. 436.
4 Ibid., p. 437.

[illegible]torial cannot be changed by the board of trustees, the county supervisors, or the city board of education.[1] In fact, the system of [illegible] elections in the magnitude of the district, since the nominations [illegible] but either a meeting, is quite substantial. The law does not provide any suitable number of citizens of school age in the residents of the district, nor is there any limitation on the size of the district.[2]

The elected trustees are classified by law as follows: class [illegible], with a school population of not thousand or more; class two, with [illegible] school population of between three hundred fifty and one thousand; and class three, with a school population of less than three hundred.[3] The board of trustees, elected for six years, consists of five members in each district of the first class, three in the second population [illegible] and two in the third class. Their terms of office are staggered, when the school population is over twenty thousand; and of three members in each district of the second and third classes. The attorney of the board, elected by the board, are a president, secretary, and treasurer, serves for one year. With the exception of the president [illegible] district of the first class, the members of the board are not required to be members of the district.[4]

The board exercises the authority to provide the public instruction in the district. It is authorized to provide for the expenditure of the school, to provide for free books when a majority of the electors of the district so determine, to provide for the introduction of textbooks

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1. Martin v. The Board, op. cit. 272.
2. School Laws of California (1917), p. 102.
3. Revised Laws of 1917, p. 478.
4. Ibid., p. 479.

in other states, and, in districts of the first class, to provide for evening schools, vocational schools, schools for aliens, playgrounds, museums, and special instruction.[1]

With respect to expenditures for erecting and furnishing school buildings and purchasing grounds, the board of directors is limited by the necessity of placing the proposal before the school taxpayers, at any general or special election. With the approval of a majority of the voters, the board is authorized to expend for first and second class districts not more than five per cent. of the assessed valuation, and for the third class districts not in excess of three and one-half per cent. In every case of the submission of a proposition to sell bonds for school purposes, the amount must be determined before submission to the people.[2]

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1 School Laws of Colorado (1917), pp. 216 ff.
2 Ibid., p. 9.

CHAPTER XII

GOVERNMENT OF TOWNS AND CITIES

In a section of the country which is changing rapidly with respect to occupied areas and shifting population, the municipal community grows in importance. The census of 1920 records a total population of 939,629 in the state of Colorado. Of this population more than one-third lives in three cities: Denver has a population of 256,491; Pueblo, 43,050; and Colorado Springs, 30,105. Other cities bring the total urban population to 48.2 per cent. of the total. Among the states Colorado ranks thirty-third in urban population and Denver, the largest city, ranks twenty-fifth among the cities of the United States.[1]

According to the classification of towns and cities by the constitution of Colorado and by statute, those communities which have a population of 2,000 or over are regarded as cities and have governmental organization as such. The cities of the first class have a population of fifteen thousand or over; cities of the second class, two thousand or over and less than fifteen thousand; and other communities which are incorporated, with less than two thousand population, are called incorporated towns.[2] It is obvious, therefore, that the government of towns and cities is a matter of considerable concern to the people of the state.

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1 Population, 1920, Fourteenth Census of United States, Vol. I, issued in 1921.

2 Constitution of Colorado, Art. XIV, Sec. 13; Mills Annotated Statutes, Sec. 7240.

CHAPTER III

DEVELOPMENT OF SOCIAL LEGISLATION

In a section of the monthly which is dealing exactly with issues in organized crime and criminal syndicates, the municipal commission plays an important role. The mission of this commission is a semi-judicial one, in the whole of Colombia. Of this population more than one-third live in the three cities: Bogota has a population of 334,000; Medellin, 64,000; and Cali, Cartago, 30,000. These cities being the only urban population in 40-8 per cent of the total. Among the other Colombian towns only Tuluy-Cali is urban population and Bogota, the largest city, ranks twenty-fifth among the cities of the United States.[1]

According to the classification of towns and cities by the commissioner of Colombia and by states, there commission which has a population of 5,000 or more are recorded as cities and have governmental organization as such. The cities of the first class have a population of fifteen thousand or more cities of the second class, ten thousand or more but less than fifteen thousand; and other communities in the country, with less than ten thousand population, are called inspectorial towns.[2] In Colombia, however, that the government of towns and cities is a matter of municipality concern to the people of the cities.

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1. Population, 1938, Statistical Bureau of United States, W.D., Issued in 1938.

2. Constitution of Colombia, Art. 207, Sec. 19; Cities Municipal Statutes, Sec. 1320.

Relation of City and State

In Colorado there are, according to the method by which they have secured their charters, three classes of cities: the cities whose charters were granted under the territorial government by special acts of the legislature;[1] those which have been formed since Colorado became a state in accord with the general law which provides for the government of cities;[2] and the cities which have been allowed since 1902 to incorporate under "home rule" charters that are provided for in the constitution.[3] The conception of the city has been mainly that it is simply an agency of the state to provide for local government, with the power remaining with the legislature to change the municipal government at will, subject only to the restrictions imposed by the Constitution of the United States and by the state constitution.[4] The city is a corporate body which has only delegated powers, by virtue of which it may sue and be sued, contract or be contracted with, acquire property, and have other privileges of corporations, not inconsistent with the laws of the state.[5] As a corporation the municipality can exercise only such powers as are granted to it by its charter or by the general laws of the state. In the interpretation of the grant of powers a liberal attitude is to be assumed, for the grant may be in express words or by implication.[6]

From the earliest period to the granting of the home rule privilege the functions of the municipal government have been extended by legisla-

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1 C. L. King, in his History of Government of Denver, p. 28, states that one of the first acts of the legislature in 1861 was to provide a charter for Denver.

2 Mills Annotated Statutes, Sec. 7224.

3 Art. XX.

4 C. L. King, History of the Government of Denver, p. 33; W. B. Munro, Government of American Cities (1917 revised edition) pp. 53, 54.

5 Mills Annotated Statutes, Sec. 7224

6 Phillips v. City of Denver, 19 Colo., 179.

tive enactment. The first controversy between the state authority and the local government, which involved the right of local self government, was the result of an attempt of the state government to regulate vice conditions within the incorporated limits of Denver. The city made its demands successfully in this affair and continued to increase its powers of self government.[1] The incident which was the occasion of the movement for home rule was the clash between the governor and the fire and the police boards of Denver. It was within the authority of the governor to appoint members of these boards and to remove them by giving the order in writing and assigning other than political reasons as the cause of removal. When the governor attempted to exercise this right on account of the ineffective enforcement in Denver of the gambling laws, he was met with armed resistance. To make his order effective he called out the state militia and requested the support of federal troops. Then at the time when serious consequences threatened, appeal was made to the supreme court which upheld the action of the governor.[2] On account of this unfortunate experience, however, the demand for local determination of local affairs became persistent. The impetus needed to bring the movement to a successful conclusion was found in the desire for the consolidation of the school districts of the City of Denver. It had been attempted and failed. A second attempt met with the obstacle of supreme court invalidation. The one remaining method, amending the constitution, was tried successfully in 1901.

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1 King, op. cit., p. 53.
2 King, op. cit., pp. 211 ff.

The amendment which provided for the local control of affairs by the City of Denver arranged the consolidation of the City and a portion of Arapahoe County which was within the limits of the city.[1] A considerable portion of the amendment is concerned with the regulation of the details as to the manner in which this consolidation should be affected, and for its government between the adoption of the amendment and the local adoption of a charter which should establish a new form of government.[2] Certain broad powers of the consolidated corporation were expressly enumerated in the first section as follows:

The City and County of Denver .... shall own, possess, and hold all property, real and personal, theretofore owned, possessed, or held by the said city of Denver, and shall have the power to construct, condemn, purchase, acquire, lease, add to, maintain, conduct, and operate, waterworks, light plants, power plants, and any other public utility or works, or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said city.[3]

The corporation of Denver was required to frame a charter. If the first attempt should not be successful, the effort should be continued until a charter acceptable to the voters should be secured. In doing this, provision was made that as soon as the proclamation of the governor announcing the adoption of the amendment should be proclaimed, the council of the City and County of Denver should, by ordinance, call a special election for the election of twenty-one taxpayers who should constitute a charter convention to frame a charter in harmony with the amendment. After due publication an election should be held for the

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1 Constitution of Colorado, Art. XX, Sec. 1.
2 Ibid., Art. XX, Sec. 3.
3 Ibid., Art. XX, Sec. 1.

approval or rejection of the charter.[1] The local control extended also to the amendment of the charter, or the adoption of a new one under regulations provided by the legislature, as follows:

When five per cent. of the qualified electors petition the council for any measure or charter amendment, or charter convention, the council shall submit the same to the electors at the next general election. A special election for the purpose must be called when a petition of at least ten per cent. is submitted ...[2]... The same question shall not be submitted again within two years.

The power conferred upon the municipality is indicated by the additional statement which provides:

Anything in the constitution of this state in conflict with or inconsistent with this provision of the amendment is hereby declared to be inapplicable to the matters and things by the amendment covered and provided for.[3]

At the same time a single limitation was placed on the city: the tax for state purposes shall not be diminished.[4] With this brief statement regarding the restrictions, the city was left to its own devices.

These provisions for home rule were more or less effective, without modification, for a period of ten years. They furnished the sources of almost constant litigation; and the interpretation of the attempted division of powers has not been satisfactorily adjusted.

The experiences of the municipal communities under the twentieth amendment were not altogether satisfactory; hence action in regard to it was taken in 1912. There does not appear to be any direct explanation

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1 Art. XX, Sec. 4.
2 Ibid., Art. XX, Sec. 5.
3 Ibid., Art. XX, Sec. 8.
4 Ibid., Art. XX, Sec. 5

[illegible]

of the desire to strengthen the amendment, although, in a number of cases adjusted in court, the city did not get the recognition thought desirable. Whatever the cause may have been, a further amendment was added in 1912.[1] In it provision was made that the people of each city or town of two thousand or more in population should have the power to "make, amend, add to, or replace" their charter. Whenever this is done, "such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of the city or town any law of the state in conflict therewith." The grant of power to the city or town was provided further in the clause, "the statutes of the State of Colorado, in so far as applicable, shall continue to apply to such cities and towns, except in so far as superseded by the charters of such towns and cities, or by ordinance passed pursuant to such charters."

To preclude the misinterpretation of the general clauses of the amendment of 1912, the detailed statement of the exclusive power of municipalities was given. The following were included among them: the creation of police and municipal courts, the control of municipal elections, the issuance of bonds for municipal purposes, and the control over taxation, with all the accompanying interests.

The section extends to the municipality a great degree of independence of action. Since the real significance of a constitutional provision or a statute rests with the judiciary, the interpretation of

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1 Ibid., Art. XX, Sec. 6.

of the desire to strengthen the amendment, although it is a matter of more adjusted in mount, the city did not yet to negotiation through [illegible]. Whatever the cause may have been, a further amendment was [illegible] in 1924. In its provisions was made that the people of each city [illegible] of the Commonwealth or more in population should have the power to [illegible], amend, add to, or repeal their charter. Thereby this is [illegible], "each city and the citizens made interested therein in such [illegible] shall exercise within the territorial limits and subject [illegible] of the city or town any one of the rights to municipal [illegible] the power of the city or town may provide therein in the charter, [illegible] of the State of Ohio, in or for municipalities, which [illegible] to apply to such cities and towns, except in so far as [illegible] by the charters of such towns and cities, or by ordinance passed [illegible] to such charters."

In [illegible] the administration of the general charter of the [illegible] of 1924, the initial statement of the municipal power of [illegible] was given. The following very important among from the [illegible] of police and municipal courts, the control of municipal [illegible], [illegible] of taxes for municipal purposes, and the control over [illegible], with all the accompanying interests.

The region extends to the municipality a great degree of independence of action. Here the real significance of a constitutional provision or a statute rests with the judiciary, the interpretation of

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1 Ibid., Art. XV, Sec. 3.

the plan of home rule explains its operation.

From the beginning of its existence the home rule amendment has been attacked: at first on the ground that it had not been adopted constitutionally; and later, on the gound that the duties encumbent upon county officials could not be delegated to city officials. The court reversed itself in this matter within a period of a few years. In 1908 a decision was rendered which dispensed with county officials, except such as are officers of the state and perform functions of state government not within the jurisdiction of the city.[1] The transfer of the source of the power of the city from the acts of the legislature to the state constitution has introduced complications which have been the occasion of much litigation. The supreme court has appeared to vacillate in its decisions but this apparent indecision has been due to the recognition by that body of the distinction between public policy and the police power. Of the many opinions given by the court the following sets forth the situation:[2]

The municipality of Denver, though created by a constitutional amendment by a direct vote of the people, and having the power to frame its own charter, is just as much an agency of the state for the purpose of government as if it was organized under the general law passed by the general assembly. The mode of its creation does not change its relation to the state. Like other cities and towns organized under the general statutes, it is still a part of the state government. It is as much amenable to state control in all matters of a public as distinguished from matters of local character as are other municipalities. The state still has the supreme power to enact general laws declaring what shall be its public policy, and it can make them applicable to the city of Denver as well as all other cities of the state.

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1 H. L. McBain, Law and Practice of Home Rule (1916), pp. 513, 514; People ex. rel. v. Johnson, 34 Colo., 143; People ex rel. v. Cassidy, 50 Colo., 503.

2 Keefe v. People, 37 Colo., 317.

At a later time the court declared that the jurisdiction of the state extends over all municipalities within its boundaries; consequently, a city ordinance not in harmony with the general law is void.[1] The home rule provision did not set apart a territorial sub-division of the state where people are to be freed from the general laws binding upon all other portions of the state. It did not attempt to set up a new government which is independent of the law making department of the state and invested with authority to govern itself as it may see fit.[2] On the contrary home rule means that all officers of the city who affect the relations of the citizens with their local government should be freed from state interference, regulation, and control; that the system of public improvements, the appointment of officials, the designation of their duties, and all other matters of purely local interest and convenience should be left to the people for their own determination.

The City Council

When the cities are not organized under special charters, they are governed by a unicameral council which is composed of aldermen, elected by districts or wards.[3] For the purposes of local government the city is divided by the council into wards, not to exceed eight in number in cities of the first class, and not to exceed six, in cities of second class.[4] In the cities of the first class one alderman is

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1 Glendinning v. The City and County of Denver, 50 Colo., 240.
2 The People ex rel. v. Johnson, 34 Colo., 143.
3 Mills Annotated Statutes, Sec. 7243.
4 Ibid., Sec. 7246.

chosen in each ward; and in cities of the second class, two aldermen are chosen.[1] The cities of the third class, which are called incorporated towns, elect a board of trustees consisting of six members, three of whom are elected each year.[2] In each class the term of office is two years. In cities of the first class the members of the council elect one of their own number to serve as president. Since he is one of the elective members of the council he has the right to vote on all questions which come before that body. In addition to the duties regularly imposed upon him, the president of the council acts as mayor when the mayor is absent from the city or unable to perform his duties.[3] The mayor sits as a member of the council in cities of the second class.[4] He serves as presiding officer, and, in case of a tie, except in passing ordinances, he has a vote. In the election of city officers the mayor has a vote as other members of the council.[5]

The members of the council receive compensation which is determined by that body. The restriction is placed on the council's action in fixing salaries that they shall neither increase or decrease the salary of any officer during his term of office.[6] In the second class cities the salary of a member of the council shall not exceed six hundred dollars.[7]

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1 Ibid., Sec. 7265; Session Laws of 1917, p. 527.
2 Mills Annotated Statutes, Sec. 7296.
3 Mills Annotated Statutes, Sec. 7262.
4 Session Laws of 1917, p. 528.
5 Mills Annotated Statutes, Sec. 7283.
6 Ibid., Sec. 7283.
7 Ibid., Sec. 7265.

The powers of cities and incorporated towns are delegated powers. They can exercise only such powers as are granted to them, either by express words or by implication, by charter or by the general laws of the state.[1] The delegated authority is exercised by the city council, to which is given a comprehensive range of powers, enumerated in seventy-six divisions of the statute law.[2] They may be classified under the general headings: police powers, financial power, appointing power, and ordinance power.

The city council exercises a police power through the regulation of building construction, provisions for fire prevention, and the use of streets and alleys. The morals of the inhabitants are guarded by the licensing and control of public places of amusement, entertainment, and recreation. The authority to suppress disorderly houses, gambling and fraudulent practises adds to the moral safeguarding of the community. The health of the city is promoted by the inspection and the regulation of the marketing of food. To administer the regulations pertaining to health, the council is empowered to appoint a board of health and, in cities of the first class, the council selects one of its own number to serve with the mayor and city physician as a health commission.[3]

The finances of the town or city are to be controlled by the council or board of trustees. For the necessary expenditures of the following financial year, which commences on the first day of April each

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1 Mayor v. Shattuck, 19 Colo., 104; Phillips v. City of Denver, 19 Colo., 179.
2 Mills Annotated Statutes, Sec. 7226.
3 Ibid., Sec. 7260.

year, the legislative body is required, in the last quarter of the year, to pass the annual appropriation bill. The ordinance which is passed for this purpose must specify not only the whole amount but also the purposes for which the appropriations are made and the amount appropriated for each purpose. No further appropriations can be made at any time during the fiscal year, unless the proposition is approved by a majority of the legal voters of the community.[1] When the appropriations have been determined, the amount expended by the council or any department may not exceed the appropriations; provided that any improvement which may be made necessary by an accident or casualty is not prevented by this act.[2] Since the amount of the annual appropriation cannot exceed the probable amount of revenue and since no indebtedness can be incurred without a previous appropriation with reference to it, the municipal finances are safeguarded.[3]

With the approval of the voters of the community, however, the city council or the board of trustees is authorized to contract indebtedness on the credit of the city or town by borrowing money or issuing bonds for any of the following purposes: the erection of public buildings, the purchase of land for public parks, the construction of a sewer, the construction of water works for fire and domestic purposes, the erection of works for the manufacture of gas, the construction of an electric light plant, the construction of bridges, and the temporary

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1 Ibid., Sec. 7350.
2 Ibid., Sec. 7351.
3 Ibid., Sec. 7352.

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[illegible] plant, the indicative body is located, is the last resort of the [illegible]. In [illegible] the annual appropriation bill. The authorizing which is [illegible] for this purpose must usually not only the whole amount but [illegible] the purposes for which the appropriations are made and the amount [illegible] appropriated for each purpose. In further appropriations can be made [illegible] this during the fiscal year, unless the proposition is approved [illegible] by a majority of the legal voters of the community. When the requisite [illegible] have been determined, the amount approved by the council or [illegible] department may not exceed the appropriation; provided that no indebtedness which may be only necessary to a welfare or morality is [illegible] prevented by this act. Since the amount of the annual appropriation [illegible] the particular amount of revenue and since no indebtedness [illegible] be incurred without a previous appropriation with reference to [illegible] the municipal finance are enforceable.

[illegible] When the approval of the voters of the community, however, the [illegible] council or the board of trustees is authorized to contract indebtedness [illegible] on the credit of the city or town by borrowing money or issuing [illegible] for any of the following purposes: the erection of public buildings [illegible] the purchase of land for public parks, the construction of a sewer, [illegible] construction of water works for city and domestic purposes, the [illegible] of works for the production of gas, the construction of an [illegible] electric plant, the construction of bridges, and the improvement

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[illegible] ibid., Sec. [illegible].
[illegible] ibid., Sec. [illegible].
[illegible] ibid., Sec. [illegible].

deficiency in current expenses. The total amount of the indebtedness allowed at any one time cannot exceed three per cent. of the assessed valuation, except in supplying water. The further limitation is placed on the power to incur indebtedness in that the amount cannot exceed twelve mills on each dollar of tax and the time to run cannot be less than ten nor more than fifteen years. When the measure is submitted to popular vote at the time of a regular election, the taxpayers who paid taxes the preceding year are qualified to vote.[1]

In cities and towns in which the outstanding bonded indebtedness amounts to one-fourth the assessed valuation or over, a majority of the tax paying electors may authorize, by petition, the council or board of trustees to levy at one time a tax sufficient to discharge the entire indebtedness. The payment of taxes may be by cash or by installments, with interest, extending over a period equal to the term of the bonds.[2] Provision is also made that a city or town, incorporated under either a special charter or the general laws, may issue negotiable bonds for the purpose of refunding the bonded indebtedness. Unless the rate of interest is changed the submission of the proposition to the voters is not necessary.[3]

The appointive power of the council in cities of the second and the third class extends to a large group of officials. The council of the second class city is empowered to appoint a city attorney, an engineer, a supervisor of streets, a superintendent of the water plant, a

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1 Session Laws of 1919, pp. 684, 685; Constitution of Colorado, Art. XI, Sec. 8.

2 Session Laws of 1921, pp. 767 ff.

3 Ibid., pp. 768 ff.

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superintendent of the sewer system, a marshall, and a police magistrate. Anyone of these officials may be removed by the council also, by a majority vote of that body, on charges of incompetence, neglect of duty, or insubordination.[1] The third class cities or incorporated towns have several officials who are specifically designated in the statutes. The following are appointed by the board of trustees or the board may provide by ordinance for their election: marshal, recorder, treasurer, and town attorney. If it is deemed necessary by the board, additional officials may be chosen and their duties assigned.[2]

The principle functions of the council or board of trustees are expressed in the making of ordinances, which must be consistent with the laws of the state. The ordinances are those necessary and proper "to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the people of the community.[3] In the exercise of the ordinance power the vote of a majority of all the members elected is required. Before any action of the council or board of trustees becomes effective, it must be presented to the mayor and receive his approval. The failure of the chief executive to return the measure to the legislative body at the next meeting renders the act of the council or board valid as if it had been approved. Should the mayor disapprove of the measure he is required to return it at the next meeting, with his objections stated in writing. The council then

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1 Session Laws of 1917, pp. 527, 528.
2 Mills Annotated Statutes, Sec. 7296.
3 Ibid., Sec. 7388.

is required to reconsider the question as to whether the ordinance shall be passed, notwithstanding the mayor's objections. If two-thirds of the members vote in the affirmative, the measure becomes law the same as if it had been approved by the mayor.[1]

A special function of the council or board of trustees is to control the private interests which seek the advantages to be gained by providing the public utilities. The interests of the public are safeguarded by limitations placed upon the general assembly and upon the local legislative body. The constitution of the state prohibits any irrevocable grant of special privileges, franchises, or immunities by the general assembly.[2] By statute law restrictions are placed upon the council or board of trustees: no franchise or license may be granted to any person or corporation to use the streets or alleys of any city or town for any purpose, except by ordinance.[3] When such an ordinance is passed, more than the usual precautions are required to prevent its passage without due consideration by the council or board and without opportunity for the public to investigate and, if it is desired, use its influence. Two weeks previous to the meeting at which it is intended to apply for the franchise or license, notice must be published in a newspaper of general circulation in the first or second class city. In the incorporated town, publication for ten days is sufficient. The notice which is published must specify all the general conditions which

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1 Ibid., 7390, 7391. In cities of the first class the veto of the mayor may be set aside by three-fourths of the members of the council. (Session Laws of 1901, p. 383).

2 Art. II, Sec. II.

3 Mills Annotated Statutes, Sec. 7395.

pertain to the desired privilege; such as, the name of the applicant, description of the rights and privileges sought, and the time and terms of the franchise or license.[1] The method of procedure of the council or board is determined also by statute. The ordinance must be read at least twice, once at the time of its introduction and again before the final vote is taken. After the first reading, if any favorable action is contemplated, publication of the proposed ordinance for two weeks is required. For final passage a majority vote of all members, excluding the mayor, is necessary.[2]

The Mayor

The position of the mayor in cities not under home rule charters is created by the general law which declares that the corporate authority of cities is vested in a mayor and a board of aldermen. The two together constitute the city council. By a plurality vote, the electors of the city elect one of their own number to serve as mayor for a term of two years. The election occurs biennially in the odd numbered years on the first Tuesday of April.[3]

The mayor is the chief executive officer of the city and conservator of the peace. As an executive officer it is his special duty to cause the ordinances and regulations of the city to be obeyed. All the other officials of the city are under his supervision as to conduct and performance of duty. Within the city limits he exercises the powers

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1 Ibid., Sec. 7396.
2 Ibid., Sec. 7397, 7398.
3 Ibid., Sec. 7243, 7244.

conferred upon the county sheriffs to suppress disorders and keep the peace. Other duties compatible with the nature of the office may be assigned to the mayor by the council or board.[1] As an official co-operating with the legislative department, the mayor signs all commissions, licenses, and permits granted by authority of that department.[2] This power is exercised in addition to the power of the suspensive veto over all ordinances and other acts of the council or board of trustees.

In cities of the first class the mayor is ex officio head of the fire and police departments and as such official he appoints, with the consent of the council, the chief of the fire department and the chief of police and subordinates in the two departments. The control over appointive officials extends to suspension and removal for cause but the council, by a two-thirds vote, may over rule the action of the mayor.[3]

The duties of the mayor of each town or city, when not otherwise provided, include service with the council or trustees as a member of the board of health of the town or city. Within these limits the county commissioners, who act as a county board of health, have no jurisdiction.[4]

The salary of the mayor is left, for the most part, to be determined by the city council. In cities of the first class, the amount cannot be less than 1800 dollars; while in cities of the second and third

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1 Ibid., Sec. 7245.
2 Ibid., Sec. 7244.
3 Ibid., Sec. 7258, 7259.
4 Ibid., Sec. 5653.

classes, the power of the council to determine the amount is modified by the general provision that in cities and towns having a population less than 5000, whether incorporated under general laws or special charters, the mayor serves without salary.[1] The further restriction is placed upon the action of the council that the salary of the official cannot be increased or dimished during the term of office.[2]

Municipal Home Rule

Under the plan of autonomous government of municipalities provided in 1902 for cities of the first class, and extended in 1912 to cities of the second class, many modifications of the mayor-and-council form of government have been introduced. With each recurrence of a reform movement in municipal government in the United States, cities of Colorado have received an impetus to new experiments. When the movement to supplant the mayor-and-council form of municipal government by the commission form was active, the larger cities adopted it. And similarly when the city manager was introduced to correct the evils of the commission, the city manager was introduced into three of the home rule cities, and, in a modified form, the principle was incorporated into the government of the largest city.

The second city in size, Pueblo, has the commission form, which was inaugurated in 1911. Under the charter, a council of five elective commissioners has all the legislative and administrative functions. From their own number, the members of the council elect a president and

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1 Ibid., Sec. 7347, 7258.
2 Ibid., Sec. 7283.

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a vice-president. The former presides at all meetings of the council, votes on all matters, but does not have veto power. As president of the council he signs all warrants, contracts, licenses, and other instruments which require the assent of the city.[1] The administration of the affairs of the city is left mainly to the following department heads, elected by the council from its membership: a commissioner of public safety, a commissioner of finance and supplies, a commissioner of highways, a commissioner of parks, lighting and water, and a commissioner of health, inspection and sanitation. Each commissioner, under some limitations imposed by the charter and by ordinances, has the direct care, control and supervision of his department, and is responsible for it.[2]

Besides the members of the council, three members of a civil service commission are elected. These two elective groups have the power to appoint the other officials: the council selects a city attorney, a city engineer, and a city clerk; the civil service commission, a city controller, and a judge of the municipal court. All the other persons in the service of the city are employes who are chosen under the civil service examinations.[3]

The city manager plan of government is well illustrated by the recently adopted plan in operation in Colorado Springs.[4] The council of nine members includes the only elective officers under the amended

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1 Charter of Pueblo, Art. III, Sec. 1, 2.
2 Ibid., Art. V, Sec. 1.
3 Ibid., Art. VI, Sec. 1.
4 An amendment to the Charter of 1909, adopted in 1920, provides for the manager form of government. The City of Boulder adopted it in 1917.

[illegible]-generation. The Czars gravitate at all meetings of the council, [illegible] in all matters, but have not have true power. In practice of [illegible] all manner to place all measures, contracts, planners, and other [illegible] which revolve the mental of the city.[2] The administration [illegible] of the office of the city is left mainly to the following department [illegible], already the mental than its membership; a commissioner of public safety, a commissioner of finance and supplies, a commissioner of highways, a commissioner of parks, lighting and water, and a commissioner of health, hospitals and sanitation. The commissioner, [illegible] were limitations imposed by the charter but by ordinance, but [illegible] time, energy and experience of his department. All is [illegible] [illegible] the [illegible].

Besides the members of the council, there members of a civil service commission are elected. These two elective groups have the [illegible] to appoint the civil officials. The council selects a city attorney, a city engineer, and a city clerk; the civil service commission, a city secretary, and a judge of the municipal court. All the other officers in the service of the city are employed who are [illegible] under the civil service regulations.[3]

The city manager plan of government is well illustrated by the recently adopted plan in operation in Dallas, Texas.[4] The council of five members includes the city elective officers under the mayor.

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1. Charter of Toledo, Ar. 11, Sec. 1, 8.
2. Ibid., Art. V, Sec. 1.
3. Ibid., Art. VI, Sec. 2.
4. As amended in the Charter of 1920, adopted in 1913, provides for the manager form of government. The city of Dallas adopted it on

charter.[1] At the first regular meeting of the council, one of its members is elected president and one vice-president. The president presides at the meetings of the council, has a voice and vote in the proceedings, but does not have the veto power. He may use the title of mayor for legal and ceremonial purposes.[2]

In its legislative capacity the council exercises all the legislative powers of the city, which are limited only by the laws of state and nation, and the provisions of the charter. The administrative powers prescribed by the charter and such as may be necessary with regard to the making of contracts, the levy and collection of taxes, and the issuance and retirement of bonds are exercised also by the council. Other officers not elected by the people, whose duties are co-extensive with the interests of the whole municipal government, are chosen by the council. This group includes a city attorney, a city clerk, a city treasurer, and a city auditor. Their duties, salary, and tenure of office are prescribed by ordinance.[3]

The recent experiment in municipal administration, the city manager plan, is introduced. The city council employs a manager who acts as the executive head of the municipality under the direction and supervision of the council. In making the selection, the council acts without restrictions and is governed only by the fitness and competency of the candidate. The appointee of the council serves during its pleasure.[4]

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1 Charter of Colorado Springs, 1909, Art. II.
2 Ibid., Art. III. Sec. 8.
3 Ibid., Art. III, Sec. 7.
4 Ibid., Art. IV, Sec. 23.

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The powers and duties of the manager are to be exercised under the direction and supervision of the council.[1] The laws and ordinances of the city are enforced by the manager. With the exception of the elective members of the council and the four officers (attorney, clerk, treasurer, and auditor) appointed by the council, the authority to appoint, to suspend, and to remove all heads of departments and all other employees of the city is within the jurisdiction of the manager. He determines and assigns the duties of the five administrative departments; and he prescribes the duties of the employees whom he may assign to the several departments. At the request of the council he attends its meetings in which he may participate in the discussions but is not allowed to vote. By virtue of his position he becomes the purchasing agent for the city; all materials and supplies necessary for any department are secured through him. At a time fixed by the council, he prepares and presents to that body his budget for the ensuing fiscal year. In this a statement is made in detail of "the aggregate sum and the items allowed to each department, office, board, or commission"; also the interest and sinking fund on the bonded debt. At the same time, after giving consideration to the estimated amount of revenue from all other sources than the tax levy, he certifies the amount of money to be raised by taxation. As an additional safeguard for the finances of the city, the manager is authorized and required to employ a certified public

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1 Ibid., Art. IV, Sec. 24.

accountant to examine the books, records, and reports of the treasurer and other officials and employees of the city who receive or disburse money belonging to the city. The report of the public accountant is filed with the manager, the treasurer, and the clerk. As a concluding provision, the manager is required to perform "such other administrative duties as may be prescribed by the charter or required of him by ordinance or resolution of the council."[1]

The essential features of the government of Colorado Springs, under a citymanager, are to be found in the cities of Boulder and Grand Junction, which have also the manager plan. In the latter city the council of seven serves for three years and five of the members are elected by districts, with two chosen at large; while in the other two the councils of nine are elected at large for six years.

The freedom of the home rule city in controlling the local activities is expressed in the methods of election of municipal officials.[2] Each of the home rule cities, except Colorado Springs, has introduced the preferential system of voting. The honest conduct of elections is a matter of concern also in each of the self-governing cities. The charters place restrictions on electoral procedure. Colorado Springs and Pueblo require compliance with the state laws regarding the purity of elections; and in addition limit the free transportation of voters by the candidate or by any other person or by any organization. In the former city one vehicle ~~which~~ may be available for the use of those who, one

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1 Ibid., Art. IV, Sec. 24.

2 Charter of Boulder, Art. III; Charter of Pueblo, Art. XIII. Grand Junction Charter, Art. II; Charter of Pueblo, Art. XIII.

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day prior to the election, apply to the city clerk for transportation; but in the latter, no free transportation to the polls is permitted. In these two cities expense accounts, whose accuracy is vouched for by the candidates, are required to be filed with the city clerk. The Boulder Charter provides for no expenditure except for the purpose of holding public meetings, for printing, and for the distribution of literature. In each case where the effort has been made to safeguard the elections by specific limitations placed in the charter, with the exception of Grand Junction where the only limitation is the restriction of free transportation to those who make application to the city clerk, penalties have been fixed for violation of the corrupt practises provisions, ranging from disqualification for the particular office to disqualification for any office or employment in the city and the penalties attached to misdemeanors under the laws of the state.

The government of the City of Denver introduces interesting innovations in municipal organization and administration. The consolidation of the city and the county has decreased the total number of officials but it has occasioned also some complications which have not been clariried by much litigation.which naturally followed.[1] After a brief experience of three years with the commission form, which began in 1913, the present form was inaugurated.[2] It is a modification of the mayor-and-council plan in which some of the characteristic features of the

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1 Municipal Code, pp. 9, 10.
2 Ibid., p. 10.

city manager plan have been incorporated.

The essentials of the plan of organization include a mayor who has all the executive and administrative powers granted to the city by the charter and by the constitution, except as they have been delegated to departments and other elective officials.[1] To assist in the administration of the government four departments are organized: improvements and parks, revenue, safety and excise, and health and charity. The head of each department, called a manager, serves also as a member of the mayor's cabinet. When the four department heads sit with the mayor as a cabinet, they formulate policies which the departments execute.[2] The legislative powers are exercised by a council of nine members, elected by districts. The general powers of the council include the management and control of finances, and the management and control of property belonging to the city. In addition to these general powers some specific duties belong to the council; such as, the levying of taxes, the regulation of business, the control of places of public amusement, and the provision for the indigent sick. In the exercise of these powers and duties the mayor may interfere by his veto, if he acts within five days. But like the veto of the federal or state executive, the mayor's veto is suspensive only; a two-thirds vote of the council overrides it.[3]

It is obvious that the mayor's position is one of supreme importance, for he enforces all laws and ordinances of the council, gives

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1 Charter of the City and County of Denver (1916), Art. II, Sec. 3
2 Ibid., Art. II, Sec. 9.
3 Ibid., Art. XIV.

city machine plan have been introduced.

The essentials of the plan of organization include a mayor and all the executive and administrative powers vested in the city by the charter and by the municipalities, except as they have been delegated to departments and other elective officials. The mayor is the administration of the government from democratic and economical improvements and rights, reforms, safety and order, and health and security. The chief of our administration, called a manager, serves also as a member of the mayor's cabinet. Then the Town Assessors have not yet the power to a manager, they formally initiate which his departments monetary. The legislative power may be exercised by a council of nine members, elected by districts. The general powers of the council include the revenue, all and control of finance, and the management and control of property belonging to the city. In addition to these general powers some municipalities derive values to the council; such as, the imposition of taxes, the regulation of business, the control of places of public amusement and the provisions for the health and safety. In the exercise of these powers, it forms the mayor and indentures by its vote, if he vote with the five days. The idea has been of the Federal or state governments the mayor's veto is suggestive only, a check-back veto of the council overrules it.

It is worthy that the mayor's position is one of power in the future. The is authorized all have and appointment of the council, since

1 Theodor of the City and Charter of Denver (1904), Art. 11, Sec. 2
2 Ibid., Art. 11, Sec. 9
3 Ibid., Art. XIV.

information to the council of the conditions of the city and county, recommends legislation by the council, signs all bonds and contracts of the city, audits by expert accountant once each year the books, records, and reports of the treasurer, auditor, and other officials, prepares the budget, and appoints the heads of departments and other officials.[1] Although his authority in making appointments is limited by a civil service commission, that body functions directly only in the appointment of the members of the police and fire departments, which are in the department of safety.[2] A comparison of the office of mayor of Denver and that of the city manager shows clearly the analogy. The general plan of government embodies good features of the city manager plan without its defects. The mayor exercises the duties of the manager to a large degree. Through his appointing power he selects expert servants for the city; the responsibility is fixed definitely; and the mayor advises with the council. Acting through subordinates, the mayor controls also the lower officials and employees. Thus it appears that the mayor functions as a manager.

The high degree of centralization of power in the hands of the mayor is indicated further by the small number of officials elected. To conduct the official business of the city and county combined, in addition to the council, there are elected an auditor, a district attorney, a county judge, a juvenile judge, and two members of an electoral

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1 Ibid., Art. XIV.
2 Ibid., Art. XV.

[illegible]ation is the essence of the prerogative of the city and country, [illegible] legislative by the council, along all basic and routinely [illegible] the city, making by ordinance [illegible] the basic [illegible], and regards of the treasury, auditor, and other officials, [illegible] the budget, and regulate the tenure of departments and other [illegible].[2] Despite his authority to make appointments in limited [illegible] a strong service commission, that body functions primarily only in the [illegible] of the members of the police and fire departments, which [illegible] the department of safety. A [illegible] of the office of mayor [illegible] and that of the city manager [illegible] clearly the [illegible]. The [illegible] of government responsibility and failures of the city manager [illegible] without the backing. The mayor exercises the duties of the [illegible] the fire force. Thereof the municipal power is vested largely [illegible] for his other responsibility is fixed definitely and the [illegible] either the council. Under strong mayor-council, the mayor [illegible] the lower officials and employees. This is opposite that [illegible] proper functions as a manager.

The city mayor of metropolitan of power is the tenure of the [illegible] is defined duplicate by the small number of officials elected. [illegible] the official terms of the city and county assessor, is [illegible] to the council, there are elected on auditor, a district attorney, a county judge, a probate judge, and the members of a school

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1. [illegible], [illegible].
2. [illegible], [illegible].

commission. The officials appointed by the mayor, in addition to those already mentioned specifically, include the following: a city attorney, a clerk and recorder, a commissioner of supplies, a county superintendent of schools, two justices of the peace, a city chaplain, and members of an industrial development board, a building department, and an inspection department.[1]

The municipal governments of the state generally have the initiative, referendum, and recall in force. By the constitution the local communities are authorized to use these measures.[2] The charters of the home rule cities likewise provide for these practises. The constitution prescribes that not more than ten per cent. of the voters may be required to order the referendum, nor more than fifteen per cent. to propose any measure by the initiative. To recall an official petitioners equal in number to twenty-five per cent. of the vote cast at the preceding election for all candidates for the office must petition for a special election.[3] In the home rule charters, however, the requirements vary from five per cent. of the voters which is necessary to submit a measure by the initiative in either Colorado Springs,[4] Boulder,[5] or Grand Junction,[6] to fifteen per cent. which is necessary to propose a measure in Pueblo.[7] In the last mentioned city forty per cent. of the votes cast at the last preceding election for all candi-

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1 Municipal Facts, December, 1919; p. 19.
2 Art. V, Sec. 1; Art. XXI, Sec. 4.
3 Constitution of Colorado, Art. XXI, Sec. 1.
4 Charter of Colorado Springs, Art. XV.
5 Charter of Boulder, Art. IV.
6 Charter of Grand Junction, Art. XVI.
7 Charter of Pueblo, Art. XII.

[illegible]

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1 [illegible]
2 [illegible]
3 [illegible]
4 [illegible]
5 [illegible]
6 [illegible]
7 [illegible]
8 [illegible]
9 [illegible]

dates for the position which the incumbant sought to be recalled occupies must petition for a recall election.[1] The other extreme with respect to the number of petitioners for the recall is Grand Junction, where only twenty per cent. of the voters are required to petition.[2]

The communities which have the locally controlled government have the advantage over the cities regulated by the state law with regard to the operation of these special features. In all the cities mentioned the initiated measure is first presented to the city council or commission which is required to pass it without alteration or submit it to a referendum vote. This relieves the community of the necessity of holding a special election and at the same time provides for the privilege of the initiative. The operation of the recall is under nearly the same safeguards in the home rule cities as in those governed by general law. The recall may not be applied within a period of several months after the election, and the official who is subject to recall may resign within a time designated, usually five days. The referendums may be used to prevent a law from becoming effective. In the larger number of cities a delay of thirty days after the passage of an ordinance before it becomes effective affords this opportunity. An interesting feature not noted in the constitutional provision is found in the Pueblo referendum: a referendum petition causes the council to reconsider the measure or submit it to a vote of the people.[3] Besides

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1 Ibid., Art. XI.
2 Charter of Grand Junction, Art. III.
3 Charter of Pueblo, Art. XII.

[illegible]

[illegible] for the parties which the incumbent would in be realized [illegible] made petition for a special election.[1] The other [illegible] [illegible] removal to his number of petitioners for the vacancy in these [illegible] elections, there only twenty per cent, of the voters are required to [illegible] petition.[2]

The necessities which have the locally controlled government [illegible] the advantage over the direct legislated by the state has with re- [illegible] to the operation of these several features. In all the direct [illegible] the initiated measure is first presented to the city council [illegible] [illegible] which is in a position to pass it without alteration or sub- [illegible] it to a referendum vote. This relieves the community of the [illegible] of holding a special election and if the same time provides [illegible] the privilege of the initiative. The question of the result in [illegible] [illegible] the same subjected to the same risk either as to loose [illegible] by careless law. The result may not be so ideal which a period [illegible] of several months after the election, and the officials who is subject to [illegible] may easily which a time contrived, usually five days. The [illegible] may be used to prevent a law from becoming effective. In [illegible] the legal method of which a delay of thirty days after the passage [illegible] of a statute before it becomes effective which this referendum. In [illegible] Dallas and also in the constitutional provision in Penn- [illegible] the Dallas referendum a referendum petition should be signed by [illegible] the number to which is to a vote of the people. Petition

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1 Idem., Art. XI.
2 Charter of Grand Rapids, Art. III.
3 Charter of Toledo, Art. XII.

this mandatory referendum the legislative bodies generally are permitted to submit any measure to the people for their rejection or approval.

APPENDIX I

BIBLIOGRAPHY

In arranging the bibliographical lists, no effort has been made to include all the materials which have been consulted. The lists contain the most valuable of the materials which have been available. The State of Colorado is new, and the value of complete records has not been realized. The authorities have not made adequate provision for the preservation of government materials, and public libraries have done little in this direction. Although a state library is maintained, its financial support is meager and its service is correspondingly incompetent. Office records and personal interviews with officials have been utilized to supplement documentary materials.

Constitutional Convention Documents

Proceedings of the Constitutional Convention held in Denver, December 20, 1875, to frame a Constitution for the State of Colorado. Published by authority of the Legislature. Denver, 1907.

State Constitution

Constitution of the State of Colorado, amended to November 5, 1918. Published by authority of the Secretary of State. Denver, 1919.

Laws of the State

Session Laws of Colorado, 1877-1921, published by the Secretary of State.

Revised Statutes of Colorado, 1908: containing the Code of Civil Procedure and all general laws of the state. Authorized by the Sixteenth General Assembly.

APPENDIX I

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APPENDIX II

SALARIES OF OFFICIALS[1]

Executive Department[2]

Governor	$5,000
Lieutenant Governor	1,000
Secretary of State	4,000
State Treasurer	6,000
Auditor of State	4,000
Superintendent of Public Instruction	3,000
Attorney General	5,000
Public Utilities Commissioner	4,000
Civil Service Commissioner	3,000
Tax Commissioner	3,600
State Boiler Inspector	2,500

Judicial Department

Justice of Supreme Court	5,000
Judge of District Court	4,000

Legislative Department

Members of General Assembly (per session)	1,000

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1 The amounts given do not include provision for office assistance and expenses, such as for traveling.

2 Salaries of members of boards and commissions are indicated by several types of officials.

APPENDIX III

STATE BOARDS AND COMMISSIONS

Board of Regents of the University of Colorado, 7 members, elected at large by state.

Public Utilities Commission, 3 members and secretary.

Industrial Commission, 3 members and secretary.

State Board of Education, 3 members (ex officio).

State Board of Equalization, 5 members (ex officio) and secretary.

State Auditing Board, 5 members (ex officio) and secretary.

State Military Board, 5 members (ex officio).

State Board of Capitol Managers, 5 members (governor ex officio chairman).

State Board of Charities and Correction, 7 members and secretary (governor ex officio chairman).

State Board of Pardons, 5 members (governor ex officio chairman).

State Bureau of Child and Animal Protection, 5 members and secretary (governor ex officio chairman).

State Historical and Natural History Society, 8 members and secretary (governor ex officio chairman).

State Board of Land Commissioners, 7 members.

State Civil Service Commission, 3 members and secretary.

State Engineering Department, 3 members.

Irrigation Division Engineers, 6 members.

Water Commissioners, 70 in number.

Inspector of Building and Loan Associations (auditor of state ex officio), 1 deputy.

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Industrial Commission, 3 members and secretary.

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State Board of Equalization, 3 members (ex officio) and secretary.

State Auditing Board, 3 members (ex officio) and secretary.

State Tuition Board, 3 members (ex officio).

State Board of Digital Computers, 3 members (governor ex officio chairman).

State Board of Examiners and Supervision, 7 members and secretary (governor chairman ex officio).

State Board of Parole, 3 members (governor ex officio chairman).

State Board of Public and Penal Institutions, 8 members and secretary (governor ex officio chairman).

State Individual and Group Civil Rights Board, 3 members and secretary (governor ex officio chairman).

State Board of Land Commissioners, 7 members.

State Civil Service Commission, 3 members and secretary.

State Registrar Department, 3 members.

Intrastate Pipeline Commission, 3 members.

State Treasurer, ex officio member.

Secretary of Publication and Data Accumulation Division of state government, 1 member.

Public Examiner.

Commissioner of Public Printing.

State Oil Inspector, 3 deputies.

State Boiler Inspector, 2 deputies.

Colorado Tax Commission, 3 members and secretary.

State Board of Health, 11 members and secretary.

State Board of Stock Inspection Commissioners, 11 members and secretary.

State Librarian (Superintendent of Public Instruction ex officio), 1 assistant.

State Insurance Department, 2 members.

State Bank Commissioner, 4 assistants.

State Fish and Game Commissioner.

State Geologist.

State Entomologist.

State Highway Advisory Board, 8 members.

State Bureau of Mines, 5 members.

Inspector of Coal Mines

State Board of Immigration, 7 members (governor ex officio).

Commissioners for the Promotion of Uniform State Laws, 3 members.

State Racing Commission, 4 members.

State Labor Department, 17 members (secretary of state ex officio).

State Motor Vehicle Department (secretary of state ex officio).

Delta Omicron.

Commissioner of Public Welfare.

Phi Mu Tau Sorority, 8 members.

Alpha Delta Sorority, 2 members.

Salvath Tau Omega, 2 members and sponsor.

Alpha Phi of Beta, 22 members and sponsor.

Alpha Phi of Alpha Omicron Commissioner, 22 members and sponsor.

Phi Alpha Omega Fraternity Commissioner of Public Welfare as sponsor. 2 members.

Alpha Lambda Department, 2 members.

Phi Mu Sigma Commissioner, 2 members.

Alpha Phi, and Phi Omega Commissioner.

Alpha Delta Commissioner.

Phi Mu Commissioner.

Phi Alpha Delta Library Social, 2 members.

Alpha Phi of Alpha, 2 members.

Commissioner of Phi Omega

Alpha Phi of Delta Omicron, 7 members Commissioner as sponsor.

Commissioner for the Promotion of Training Alpha Phi, 2 members.

Alpha Delta Commission, 2 members.

Alpha Delta Department, 27 members Commissioner of Alpha as sponsor.

Alpha Delta Phi Alpha Department Commissioner of Alpha as sponsor.

Traveling Library Commission, 5 members.

Public Trustees, 7 in number.

Board of Trustees: school for deaf and blind, 6 members.

Board of Trustees: State Teachers College and State Normal School, 7 members.

State Board of Agriculture, 9 members (governor ex officio).

Board of Control: workshop for blind, 3 members.

Board of Corrections, 3 members.

Board of Commissions: soldiers' and sailors' home, 5 members.

Board of Control: state home for dependent and neglected children, 6 members.

Board of Control: industrial school for boys, 6 members (governor ex officio).

Commissioners: state home and training school for mental defectives, 4 members.

State Fair Commission, 4 members.

Examining Boards.

State Board of Examiners of Architects, 5 members.
State Examining Board: state teachers college, 3 members.
State Examining Board: state normal school, 3 members
State Board of Examiners, 10 members.
Board of Examiners of Coal Mine Inspectors, 5 members.
Board of Barber Examiners, 3 members.
Board of Dental Examiners, 5 members.
Board of Nurse Examiners, 5 members.
Board of Medical Examiners, 9 members.
State Board of Pharmacy, 3 members.
State Board of Opotometric Examiners, 5 members.
State Board of Accountancy, 3 members.
State Vetrinary Examining Board, 3 members.
State Board of Embalming Examiners, 5 members.
State Board of E aminers for Engineers and Land Surveyors, 5 members.

State Budget and Efficiency Commission, 1 member.

Blind Benefit Commission, 3 members.

Teaching Advisory Committee, 3 members.

Public Teachers, 7 in number.

Board of Trustees: appoint the chief executive officer, 6 members.

Board of Trustees: State Teachers Retirement and State Teachers Board, 7 members.

State Board of Agriculture, 6 members (governor as ex-officio).

Board of Dairy Industry Workers for Blind, 7 members.

Board of Accreditation, 8 members.

Board of Commissioners: military and military home, 3 members.

Board of Dentistry: state home for dependent and neglected children, 4 members.

Board of Industrial Commission for Men, 3 members (governor ex-officio).

Commissioners: state home and industrial school for girls, 4 members.

State Bar Association, 1 member.

Executive Council.

State Board of Directors of Institutes, 3 members.
State Executive Board: state teachers college, 3 members.
State Executive Board: state normal school, 3 members
State Board of Examiners, 3 members.
Board of Directors of Joint Stock Insurance, 3 members.
Board of Living Directors, 3 members.
Board of Social Directors, 3 members.
Board of Home Directors, 3 members.
Board of Medical Directors, 3 members.
State Board of Examiners, 3 members.
State Board of Insurance, 3 members.
State Board of Examiners Examiners, 3 members.
State Board of Insurance, 3 members.
State Veterinary Examining Board, 3 members.
State Board of Education Commission, 3 members.
State Board of Examiners for Engineers and Land Surveyors, 3 members.

State Budget and Efficiency Commission, 3 members.

State Health Commission, 3 members.

Commission to Recodify State Laws, 5 members.

State Railway Commission, 5 members.

APPENDIX IV

SUBDIVISIONS OF THE STATE

Congressional Districts

First District: the City and County of Denver.

Second District: the counties of Adams, Arapahoe, Boulder, Cheyenne, Douglas, Elbert, El Paso, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma.

Third District: Alamosa, Baca, Bent, Clear Creek, Conejos, Costilla Crowley, Custer, Fremont, Gilpin, Huerfano, Jefferson, Kiowa, Las Animas, Mineral, Otero, Park, Prowers, Pueblo, Rio Grande, Saguache, and Teller.

Fourth District: Archuleta, Chaffee, Delta, Dolores, Eagle, Garfield, Grand, Gunnison, Hinsdale, Jackson, Lake, La Plata, Mesa Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, San Miguel, and Summit.

Senatorial Districts

First District: the City and County of Denver.[1]

Second District: Pueblo County.[2]

Third District: El Paso County.[2]

Fourth District: Las Animas County.

Fifth District: Boulder County.

Sixth District: Chaffee and Lake Counties.

Seventh District: Weld County.

Eighth District: Jefferson County.

Ninth District: Fremont County.

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1 Entitled to seven senators.
2 Entitled to two senators.

Tenth District: Larimer County.

Eleventh District: Gunnison and Delta Counties.

Twelfth District: Logan, Sedgwick, Phillips, Washington, and Yuma Counties.

Thirteenth District: Jackson, Routt, Rio Blanco, and Moffat Counties.

Fourteenth District: Costilla, Custer, and Huerfano Counties.

Fifteenth District: Rio Grande, Saguache, and Mineral Counties

Sixteenth District: Mesa County.

Seventeenth District: Dolores, Montrose, and San Miguel Counties.

Eighteenth District: Hinsdale, Ouray, San Juan, and Archuleta Counties.

Nineteenth District: La Plata, and Montezuma Counties.

Twentieth District: Teller and Park Counties.

Twenty-first District: Eagle, Garfield, and Pitkin Counties.

Twenty-second District: Adams, Arapahoe, and Morgan Counties.

Twenty-third District: Crowley and Otero Counties.

Twenty-fourth District: Conejos and Alamosa Counties.

Twenty-fifth District: Bama, Bent, Kiowa, and Prowers Counties.

Twenty-sixth District: Clear Creek, Gilpin, Grand, and Summit Counties.

Twenty-seventh District: Kit Carson, Cheyenne, Douglas, Elbert, and Lincoln.

Tenth District: Denver [illegible].

Eleventh District: Shreveport and Baton Rouge.

Twelfth District: San Antonio, Galveston, Brownsville, and San Antonio.

Thirteenth District: Fargo, Bismarck, Sioux Falls and Rapid City.

Fourteenth District: Portland, Boise, and Spokane Portland.

Fifteenth District: El Paso, Phoenix, and Salt Lake City.

Sixteenth District: San Diego.

Seventeenth District: Helena, Butte, and the Sioux Falls.

Eighteenth District: Tucson, Carson, San Juan, and Honolulu Territory.

Nineteenth District: La Plata, and Mexicano Territory.

Twentieth District: Tulsa and Fort Sheridan.

Twenty-first District: Tuba, Portland, and Fifth Territory.

Twenty-second District: Ibana, Grenada, and Bangor District.

Twenty-third District: Cowley and Cross Shelton.

Twenty-fourth District: Omaha and Kansas Territory.

Twenty-sixth District: Tuba, Fort, Kiowa, and Sioux Territory.

Twenty-eighth District: Kiowa Creek, Origin, Omaha, and Santa Fe Territory.

Twenty-seventh District: Six Lakes, Dakota, Nuqua, Kiowa, and Jamesville.

House of Representatives Districts

The members of the house of representatives are apportioned among the counties as follows: City and County of Denver, twelve; Pueblo, four; El Paso, three; Weld, two; Larimer, one; Boulder, two; Mesa, one; Las Animas, two; Teller and Park, two; Fremont, one; Crowley and Otero, two; Jefferson, one; Arapahoe and Elbert, one; Garfield and Rio Blanco, one; Delta, one; Montrose, one; Conejos, one; Alamosa, one; Adams, one; Pitkin, one; La Plata, one; Lake one, Rio Grande, one; Chaffee, one; Morgan and Washington, one; Clear Creek, one; Gilpin, one; Ouray, one; San Juan, one; Logan and Sedgwick, one; Phillips and Yuma, one; Gunnison, one; Saguache and Custer, one; Douglas, one; Lincoln, Kit Carson, and Cheyenne, one; Kiowa and Bent, one; Prowers and Baca, one; San Miguel, one; Hinsdale, Archuleta, and Mineral, one; Routt and Moffat, one; Summit, Grand, and Jackson, one; Eagle, one; Huerfano and Costilla, one; Montezuma and Dolores, one.

Judicial Districts

District No. 1: Arapahoe, Clear Creek, Gilpin, and Jefferson Counties, One judge.

District No. 2: Denver County. Five judges.

District No. 3: Baca, Bent, Huerfano, Las Animas, and Prowers Counties. Two judges.

District No. 4: Cheyenne, Douglas, Elbert, El Paso, Kit Carson, Lincoln and Teller Counties. Two judges.

District No. 5: Eagle, Lake, and Summit Counties. One judge.

District No. 6: Archuleta, Dolores, La Plata, Montezuma, and San Juan Counties. One judge

District No. 7: Delta, Gunnison, Hinsdale, Mesa, Montezuma, Ouray, and San Miguel counties. Two judges.

District No. 8: Adams, Boulder, Larimer, and Weld Counties. Two judges.

District No. 9: Garfield, Pitkin, and Rio Blanco Counties. One judge.

District No. 10: Kiowa, Otero, and Pueblo Counties. Two judges.

District No. 11: Chaffee, Custer, Fremont, and Park Counties. One judge.

District No. 12: Conejos, Costilla, Mineral, Rio Grande, and Saguache Counties. One judge.

District No. 13. Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma Counties. Two judges.

District No. 14: Grand, Moffat, and Routt counties. One judge.

Highway Divisions

District No. 1: the City and County of Denver.

District No. 2: the counties of Delta, Eagle, Garfield, Gunnison, Ouray, Mesa, Montrose, Pitkin, Rio Blanco, San Miguel, and Summit.

District No. 3: the counties of Alamosa, Archuleta, Conejas, Costilla, Dolores, Hinsdale, Huerfano, La Plata, Las Animas, Mineral, Montezuma, Rio Grande, Saguache, and San Juan.

District No. 4: the counties of Baca, Bent, Chaffee, Crowley, Custer, Fremont, Kiowa, Otero Prowers, and Pueblo.

District No. 5: the counties of Cheyenne, Douglas, Elbert, El Paso, Kit Carson, Lake, Lincoln, Park, and Teller.

Exercise No. 7: Sales, Customer, Schedule, Item, Service-use, Group, and Sub Groups services. The judges.

Exercise No. 8: Album, Studio, Cashier, and Full Service The judges.

Exercise No. 9: Certificate, Office, and Sale Clerks Customer. The judge.

Exercise No. 10: Items, Items, and Inventory Control. The judges.

Exercise No. 11: Vendors, Order, Payment, and Bank Reconciliation. The judge.

Exercise No. 12: Employee, Benefits, Payroll, Job Costs, and Job Time Reporting. The judges.

Exercise No. 13: Budget, Budget, and Actual reports. The judge.

Finance Activities

Exercise No. 1: The Life and Death of Money.

Exercise No. 2: The evolution of Sales, Profit, Certificate, Customer, Money, Bank, Employee, Items, The Budget, Job Report, and Payroll.

Exercise No. 3: The evolution of Employee, Production, Customer, Benefits, Payroll, Schedule, Inventory, Job Costs, Job Time, Payroll, Accounts, Six Profit, Employee, and Job Time.

Exercise No. 4: The evolution of Bank, Bank, Certificate, Cashier, Payment, Item, Inventory, and Service.

Exercise No. 5: The evolution of Employee, Benefits, Payroll, Job Time, Job Costs, Sales, Income, Item, and Service.

District No. 6: the counties of Boulder, Clear Creek, Gilpin, Grand, Jackson, Jefferson, Larimer, Moffat, and Routt.

District No. 7: the counties of Adams, Arapahoe, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma.

Irrigation Divisions

Division No. 1: lands irrigated by water taken from the South Platte, North Platte, Big Laramie, North and Middle Forks of the Republican, Sandy and Frenchman's Creeks.

Division No. 2; lands irrigated by water taken from the Arkansas River, South Fork of the Republican, Smoky Hill, and Dry Cimarron.

Division No. 3: lands irrigated by water taken from the Rio Grande.

Division No. 4: lands watered by the San Juan, and Grand River below mouth of Roan Creek.

Division No. 5: lands watered by the Green River, and the Grand River above Roan Creek.

The irrigated portion of the state is divided into seventy water districts with a water commissioner in charge of each, who co-operates with the division engineer in charge of the irrigation division.

[illegible] Xb, 4: The wrongness of Beulah, Chase Creek, Allyn, Chuck, Andrew, Jefferson, Luther, Betty, and Ruth.

Stanza Xb, 7: The presence of Dawn, Jerusha, Jason, Vernon, Billie, Deborah, Victoria, Will and Tom.

Indecisive Ending

Stanza Xb, 1: Jacob infuriated by noise issue from the girls dorm, Ruth flirts, Bill Jackson, Betty and Patrick Smith of the Department, Jacob and Freedman's friends.

Stanza Xb, 2: Jacob irritated by noise issue from the dormitory, Susan Fox at the Demolition, Bobby Bill, and Ms Timothy.

Stanza Xb, 3: Jacob disgusted by noise issue from the dormitory.

Stanza Xb, 5: Jacob worried by Mrs Ann Shaw, and Jacob thinks about his of Ann Shaw.

Stanza Xb, 6: Jacob returns to the Shaw house, but the Social Chairman stops Jacob Cohen.

The indicated pattern of the whole is critical into arrangement indicate with a noisy consciousness to escape it need. and [illegible] the intuition continues to stress of the indecisive ending.